



MUSALMANS AND MONEY-LENDERS

IN THE
PUNJAB.

BY

S. S. THORBURN,

BENGAL CIVIL SERVICE :

AUTHOR OF "BANNU OR OUR AFGHAN FRONTIER," "DAVID LESLIE,"
&c., &c.



WILLIAM BLACKWOOD & SONS,

EDINBURGH AND LONDON.

INDEX TO CONTENTS.

	<i>Page.</i>
Accounts—improvements in	149
Advances to agriculturists	101
Agriculturists—condition of Musalman	73-92
„ —in Bombay	58-64
Arains—particulars about	32
Attachment and sale—rules of, in Kapurthala	198-199
Arbitration	77
„ —changes proposed in	142
Awans—particulars about	20
Area and population statement	13
Bannu district	86, 163
Biluches—particulars of	22, 23
Brahmans— „ „	34
Bunniah— „ „	35-39
“Calcutta Review” on Indian legislation	184-190
Chief Court on effect of infant marriage	120-121
„ „ „ misconception of powers	122
„ „ „ presumption of ignorance	126-129
Census of 1881—figures of	13
Central-Punjab	2
„ „ „ —people of the	14
Civil Procedure Code—effect of “may” and “shall” in	141
„ „ „ —changes wanted in	139-153
Class legislation	57
Conversion of Hindus to Islam	3, 8
Cyclical system	110
Debt—imprisonment for	145, 146
Decrees and executions	142, 143
Dehra-Ghazi-Khan	86, 163
Dehra-Ismail-Khan	86, 164
Deccan—agrarian rising in the	69
Deccan Ryots’ Act	70-71
Direct management	109-110
Diwan Sawan Mall	11, 12

	Page
Eastern Punjab—inhabitants of the	13
Education of Musalmans	96
Elasticity of demand—four modes of	109
Expropriation of peasantry	I
„ —Sir W. Muir on	68
„ —Mr. J. B. Lyall on	87
„ —Sir J. Strachey on	66
„ —Sir D. McLeod on	68
False bonds—making of	135-136
Famine Commission on indebtedness	80
„ „ „ fixity and elasticity	180-183
„ „ „ land transfers	93
Fixed cash assessments—introduction of	46
Fluctuating „ —kinds of	109-112
„ „ —area under	113
„ „ —extension of	114
Fraud—High Court, N.-W. P., on	194
Ghakkhars	31
Gujars	30
Gujrat district	176
Gujranwala „	177
Hazara „	89, 92
Hindus and Sikhs...	34-41
Hindu traders	35
Hinduism—effects of, on character	15
Holy classes	7, 29
Ignorance—presumption of	126-129
India—people of	39, 54, 80
Interest—award of	126
Insolvency Law	196, 197
Imprisonment for debt	145-146
Islam—effect of, on character	8, 16, 17
Indebtedness—agricultural, throughout India	54-72
Jat tribes	24, 25
Jhang district	82, 158
Jhelum „	91, 173
Kapurthala rules	198-199
Khatriis	35
Kohat district	89, 92, 172

	Page.
Land question—material facts in	95-96
„ —immaterial issues in	97
tenure—reforms in	179
—restrictions in transfers of	99, 102
transfers—statistics of	93
<i>Laisser aller</i> —remarks on	31, 87
Legislation in India—Mr. Howell on	184-190
„ „ —Chief Court on	119, 120
Litigation—costliness of	130, 131
„ —increase in	76
Limitation Act—changes in	74, 75
„ —extension of period of	147
Mahomedan revival	14, 15
Mahmood, Justice—on interest in bonds	191-193
Marwari money-lenders of the Deccan	58-64
Montgomery district	82, 155
Moghals and Turks	8, 33
Modern British India	54, 55
Mooltan district	86, 160
Musalman agriculturists—state of	82-92, 155-177
„ „ —improvidence of	51
„ tribes—a list of	18
Munsifs	78, 129, 135
Muzaffargarh district	84, 157
Northern Table-land described	5
Necessaries—exemption from sale and attachment for all	144
Optimism of Government	77
Our system—remarks on	39, 56, 57, 87, 137
Over-legislation—Sir G. Campbell on	117-118
„ „ —Mr. Howell on	184 190
„ „ —examples of	119
Pathans—particulars about	20-22
Patriarchal system	116
Peshawar district	89, 169
Pleaders—uses and evils of	23, 79, 132, 152, 153
Proprietary rights in land—gift of	49-51, 84
Punjab—state of the, before annexation	8-10, 42
„ —state of the, after annexation	45, 46
„ —races of the	13-41
„ —divisions of the Western	2-3
„ —colonisation of the	7

	<i>Page.</i>
Rajputs—particulars about ...	25, 27
Rainfall—rule of ...	89
„ —tracts of short ...	108
Rawalpindi district ...	172
Reforms in land tenure ...	102-105
„ „ —native views on ...	139-140
„ „ —direction of ...	141
Relief Acts—agreement in ...	72
Registration of bonds ...	150-152
Revenue system of Sikhs ...	43-45
„ „ introduced by us ...	46-53
„ balances ...	115
Settlements—summary ...	47
„ —regular ...	48
Specific reforms stated ...	144-153
Sikhs particulars about ...	15, 16, 34
Sind landlords ...	65, 72
South-western plain described... ..	4
Suits—increase in number of ...	75, 76
Syads	27-28
Tenants and peasant proprietors ...	55-56
Urban population ...	17
Ultimate landlord—the State is ...	45
Western Punjab—tribes of the ...	18
Working days in the year ...	135



MUSALMANS AND MONEY-LENDERS

IN THE
PUNJAB.

BY

S. S. THORBURN,

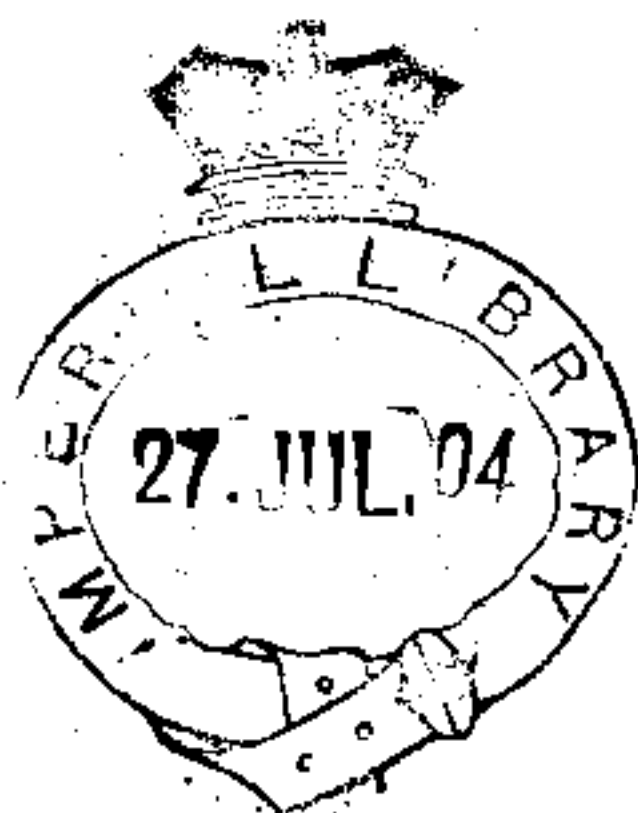
BENGAL CIVIL SERVICE :

AUTHOR OF "BANNU OR OUR AFGHAN FRONTIER," "DAVID LESLIE,"
&c., &c.



WILLIAM BLACKWOOD & SONS,

EDINBURGH AND LONDON.



PRINTED AT THE PIONEER PRESS, ALLAHABAD.

INDEX TO CONTENTS.

	<i>Page.</i>
Accounts—improvements in	149
Advances to agriculturists	101
Agriculturists—condition of Musalman	73-92
„ —in Bombay	58-64
Arains—particulars about	32
Attachment and sale—rules of, in Kapurthala	198-199
Arbitration	77
„ —changes proposed in	142
Awans—particulars about	20
Area and population statement	13
Bannu district	86, 163
Biluches—particulars of	22, 23
Brahmans— „ „	34
Bunniah— „ „	35-39
“Calcutta Review” on Indian legislation	184-190
Chief Court on effect of infant marriage	120-121
„ „ „ misconception of powers	122
„ „ „ presumption of ignorance	126-129
Census of 1881—figures of	13
Central-Punjab	2
„ „ —people of the	14
Civil Procedure Code—effect of “may” and “shall” in	141
„ „ „ —changes wanted in	139-153
Class legislation	57
Conversion of Hindus to Islam	3, 8
Cyclical system	110
Debt—imprisonment for	145, 146
Decrees and executions	142, 143
Dehra-Ghazi-Khan	86, 163
Dehra-Ismail-Khan	86, 164
Deccan—agrarian rising in the	69
Deccan Ryots’ Act	70-71
Direct management	109-110
Diwan Sawan Mall	11, 12

	Page
Eastern Punjab—inhabitants of the	13
Education of Musalmans	96
Elasticity of demand—four modes of	109
Expropriation of peasantry	I
—Sir W. Muir on	68
—Mr. J. B. Lyall on	87
—Sir J. Strachey on	66
—Sir D. McLeod on	68
False bonds—making of	135-136
Famine Commission on indebtedness	80
,, ,, ,, fixity and elasticity	180-183
,, ,, ,, land transfers	93
Fixed cash assessments—introduction of	46
Fluctuating ,, —kinds of	109-112
,, ,, —area under	113
,, ,, —extension of	114
Fraud—High Court, N.-W. P., on	194
Ghakkhars	31
Gujars	30
Gujrat district	176
Gujranwala ,,	177
Hazara ,,	89, 92
Hindus and Sikhs...	34-41
Hindu traders	35
Hinduism—effects of, on character	15
Holy classes	7, 29
Ignorance—presumption of	126-129
India—people of	39, 54, 80
Interest—award of	126
Insolvency Law	196, 197
Imprisonment for debt	145-146
Islam—effect of, on character	8, 16, 17
Indebtedness—agricultural, throughout India	54-72
Jat tribes	24, 25
Jhang district	82, 158
Jhelum ,,	91, 173
Kapurthala rules	198-199
Khatriis	35
Kohat district	89, 92, 172

	Page.
Land question—material facts in	95-96
„ —immaterial issues in	97
tenure—reforms in	179
—restrictions in transfers of	99, 102
transfers—statistics of	93
<i>Laisser aller</i> —remarks on	31, 87
Legislation in India—Mr. Howell on	184-190
„ „ —Chief Court on	119, 120
Litigation—costliness of	130, 131
„ —increase in	76
Limitation Act—changes in	74, 75
„ —extension of period of	147
Mahomedan revival	14, 15
Mahmood, Justice—on interest in bonds	191-193
Marwari money-lenders of the Deccan	58-64
Montgomery district	82, 155
Moghals and Turks	8, 33
Modern British India	54, 55
Mooltan district	86, 160
Musalman agriculturists—state of	82-92, 155-177
„ „ —improvidence of	51
„ tribes—a list of	18
Munsifs	78, 129, 135
Muzaffargarh district	84, 157
Northern Table-land described	5
Necessaries—exemption from sale and attachment for all	144
Optimism of Government	77
Our system—remarks on	39, 56, 57, 87, 137
Over-legislation—Sir G. Campbell on	117-118
„ „ —Mr. Howell on	184 190
„ „ —examples of	119
Pathans—particulars about	20-22
Patriarchal system	116
Peshawar district	89, 169
Pleaders—uses and evils of	23, 79, 132, 152, 153
Proprietary rights in land—gift of	49-51, 84
Punjab—state of the, before annexation	8-10, 42
„ —state of the, after annexation	45, 46
„ —races of the	13-41
„ —divisions of the Western	2-3
„ —colonisation of the	7

	<i>Page.</i>
Rajputs—particulars about ...	25, 27
Rainfall—rule of ...	89
„ —tracts of short ...	108
Rawalpindi district ...	172
Reforms in land tenure ...	102-105
„ „ —native views on ...	139-140
„ „ —direction of ...	141
Relief Acts—agreement in ...	72
Registration of bonds ...	150-152
Revenue system of Sikhs ...	43-45
„ „ introduced by us ...	46-53
„ balances ...	115
Settlements—summary ...	47
„ —regular ...	48
Specific reforms stated ...	144-153
Sikhs particulars about ...	15, 16, 34
Sind landlords ...	65, 72
South-western plain described... ..	4
Suits—increase in number of ...	75, 76
Syads	27-28
Tenants and peasant proprietors ...	55-56
Urban population ...	17
Ultimate landlord—the State is ...	45
Western Punjab—tribes of the ...	18
Working days in the year ...	135

MUSALMANS AND MONEY-LENDERS.

CHAPTER I.

A GENERAL DESCRIPTION OF THE PUNJAB.

THE Punjab is an agricultural province, a land of peasant proprietors, a large and annually increasing portion of whom are sinking into the position of serfs to the money-lenders. The gradual transfer of ownership of the soil from its natural lords—the cultivators—to astute but uninfluential Hindu traders and bankers, is directly due to a system of law and administration created by ourselves, which, unless remedied in time, must eventually imperil the stability of our hold on the country. The danger will be greater in the Western than in the Central and Eastern tracts of the Punjab, because, in the west, the rural population is entirely composed of strong Musalman tribes; hence the antagonism of creeds will be superadded to that of interests. Throughout Eastern Europe the Jews are hated and persecuted rather because they are successful aliens and professors of an old-world faith than because they are successful. So with the Buniahhs of the Western Punjab. They offend not only because they thrive on the misfortunes of monotheistic agriculturists, but because they are interlopers and polytheists, if not idolators.

Gradual expropriation of Musalman peasant proprietors a source of danger.

The rich level plain between the meridians of Jhelum and Ludhiana roughly comprises the nine central districts of the Punjab, namely, Gujranwala, Sialkot, Gurdaspur, Amritsar, Lahore, Hoshiarpur, Jalandhar, Firozpur, and Ludhiana.

These nine districts have an area of 19,218 square miles, or nearly half that of Scotland. The population is made up of thirty-seven lakhs of Musalmans, nine lakhs of Sikhs, and twenty-six lakhs of Hindus. The tract is fertile, thickly populated, and carefully cultivated. It is, except towards the south, fairly protected from famine by canals or a sufficient rainfall. Though the Musalmans considerably outnumber Sikhs and Hindus together, either of the latter are strong enough to hold their own, single-handed, against the former. There is little active antipathy between the followers of the three religions. Of the three, the Musalmans are the most backward and ignorant, and therefore least able to hold their own in a law-ridden age.

The Eastern Punjab is as large as Scotland, but supports double its population. It is divided into eight districts,* covers an area of 25,622 square miles, of which one-third is mountainous, and has a population of thirty-eight lakhs of Hindus, eleven lakhs of Musalmans, and one lakh of Sikhs. Thus, Hindus outnumber Musalmans by over three to one. The latter having embraced Islam between 200 to 300 years ago, retain many of their ancient Hindu customs and superstitions, are very lax Mahomedans, and would, in case of a popular rising, rather follow than lead their Hindu or Sikh neighbours.

* They are Kangra, Simla, Karnal, Umballa, Delhi, Rohtak, Gurgaon, Hissar-cum-Sirsa.

In Aurangzeb's time his proselytising zeal burnt so fiercely that great numbers of Hindus converted to Islam, particularly in the eastern districts of the Punjab. Their change of faith was never sincere. To this day Hinduism has so strong a hold upon them that, as it has been well put, they "observe the feasts of both religions and the fasts of neither." Since the Mutiny of 1857 they are said to have become much stricter believers. It may generally be said that, throughout the Punjab, the religion of the majority mitigates the exclusiveness of the minority. Thus, taking Lahore as a centre, Musalmans are progressively eastwards of it laxer, but westwards stricter, Mahomedans. We must, however, not forget that one peculiarity of Islam is, that the more ignorant the believer the greater and more easily roused is the potential energy of his fanaticism. The Arabs of the Soudan and of Arabia are many of them sun-worshippers still at heart, and know no more of Islam than its creed—"Except God there is no God and Mahomed is the Messenger of God:" yet both, when inflamed by a Mahdi, are reckless fanatics.

There remains to be described the Western Punjab, the home of the Musalman subjects of our Queen-Empress. It comprises all British Punjab between the meridian of Jhelum on the east and our actual Trans-Indus frontier on the west, between the Himalayas on the north and the feudatory State of Bahawalpur on the south. The whole country covers an area of 61,792 square miles, or nearly two-thirds of the Punjab. It is therefore larger than England and Wales together, and twice as large as Ireland or Scotland. It is divided into two unequal tracts, with distinctive physical and climatic characteristics, by a range of mountains called the Salt Range, which extends for

Western or Musalman portion of the province.

about 200 miles from near Jhelum in a western direction to Kalabagh on the Indus, at which point the hills blend with those of the Kohat district.

South of the Salt Range the country, except in its extreme north-eastern corner, where lies the fertile little submontane district of

The South-West-
ern plain.

Gujrat, is one vast arid plain traversed by five great rivers—the Sutlej, Ravi, Chenab, Jhelum, and Indus. The last-named runs from north to south, the other four in a south-western direction, until, after converging one into the other, they finally join the former in one united stream opposite Rajanpur, in the Dera-Ghazi-Khan district. As each river flows through a plain whose soil is light and sandy, and is subject to great and sudden rises between the months of June and September, according to the rainfall in its catchment basin in the Himalayas, each has worn out for itself in the course of ages an expansive depression or valley of from five to twenty miles in width. Within this bed its streams oscillate between bank and bank with, it is said, unaccountable periodicity.

In the cold weather the stream meanders with feeble current in its narrow channel, but in the hot, sweeps along in full volume a turbid sea of yellow water.

When the flooded streams subside, a vast expanse of arable or grazing land becomes available, and has for ages been always utilized for tilth and pasturage by its amphibious human denizens.

The area composing the south-eastern plain just described is about 44,640 square miles, or two-thirds of the Western Punjab. It is divided into nine districts—Bannu, Dera-Ismail-Khan, and Dera-Ghazi-Khan (Trans-Indus), and Gujrat, Shahpur, Jhang, Montgomery, Mooltan, and Muzaffargarh (Cis-Indus). Excluding the long strip of upland

and river bed between the Indus south of Bannu (Edwardesabad) and the Suliman Range, which forms the western boundary of British India, this great south-western plain is broken up, by the river system flowing through it, into four "*doabs*" or tongues of land between rivers. In good seasons each "*doab*" is throughout the autumn, and early months in the cold weather, covered with a flush of grass and scrub jungle, and thus affords ample pasturage to the numerous flocks and herds of the graziers who occupy it. But for the first six months of the year, whenever the hot weather rains fail, in place of such prairie-like verdure the land looks, as it is often called, "a howling wilderness"—a desert such as the shores of the Red Sea appear to the P. and O. passenger. As the banks or lips of the valleys within which the Punjab rivers flow form the line of demarcation between desert and green pasturage or rich corn land, the change from one to the other is always abrupt and sudden.

To the north of the Salt Range lies a broken table-land enclosed by the range itself, the Himalayas and the independent hills abutting on the Kohat, Peshawar, and Hazara districts. This table-land, with the hills and valleys connected with it, has an area of 17,152 square miles, and is divided into five districts—Peshawar and Kohat (both Trans-Indus), and Hazara, Rawalpindi, and Jhelum (all Cis-Indus).

The face of the country is furrowed into innumerable ravines by the streams and occasional torrents from the encircling hills. The soil is generally stiffer and more cohesive than that of the south-western plain. Except in favored valleys, such as that of Peshawar, in which canal irrigation exists, and a narrow submontane tract skirting the outlying-range of the Himalayas, the northern table-land looks at most seasons wild, bleak, and inhospitable.

The two tracts which compose the Western Punjab have several common characteristics.

In neither are there any industries or large towns except that of Peshawar. In both, agriculture, to which may be added the rearing of cattle in the "*doabs*" of the great rivers, is the common occupation. Then Musalmans form the entire rural population. Though divided into tribes and sections, each settled in its own domain and each with a recognized status, all are bound together by devotion to a common creed and by a contemptuous impatience against the yoke³ of the common enemy—the Hindu usurer. In other respects the two tracts differ. The northern table-land has a longer cold weather, a heavier and more certain rainfall, and consequently securer harvests than the dreary south-western plain, with its droughts, its fiercely hot summers, and its dead-level of sandy expanse. In the north, life is altogether easier to Englishman and peasant alike. In the south, to the former it is a terrestrial purgatory, and to the latter a weary struggle against indebtedness with no hope of rest except in the grave.

It is chiefly with the Western Punjab, in which I have served for 18 years, I intend to deal in this volume. It is there in the frontier province occupied by powerful Musalman tribes and bordering for 400 miles on Afghanistan—the home of Musalman independence and fanaticism—that the evils of what is called "our system" are most apparent, most potentially dangerous for ourselves, and therefore most urgently pressing for a remedy.

Tracts north and south of the Salt Range compared.

Subject of book stated.

CHAPTER II.

HISTORICAL AND FISCAL RETROSPECT.

BEFORE I attempt to classify, describe, and allocate the races comprising the rural population of the Punjab, but more particularly the dominant Musalman tribes settled west of the Jhelum meridian, I shall devote a few pages to a historical and fiscal retrospect. The state of the country upon annexation will thus be understood.

Many centuries before Christ, successive Aryan colonists had crossed the Indus, and, ever-pressing eastward, had driven out or absorbed the aboriginal occupants, and increased and multiplied into a great and civilized people. Later came Scythian swarms. At the time of Alexander the Great's invasion (320 *B. C.*), the Punjab was ruled by Hindu Rajas, the country was studded with walled towns, and Buddhism was for the time obscuring Brahminism. The jungly beds of the Punjab rivers and the desert tracts between them were roamed over by bands of pastoral nomads, probably of Scythian origin, and certainly the ancestors of some of the Jat and nondescript Musalman tribes of to-day. There can be no doubt that from pre-historic up to recent times, bands of mountaineers from Afghanistan and Khorasan, either independently as peaceful colonists, or as a force in an army of invasion, were constantly settling down as graziers and cultivators in thinly occupied tracts in the Punjab. The continuous flow of immigrants from the west—each successive swarm displacing and pushing further east or absorbing a group of earlier squatters—was only finally stopped by the British annexation of the

Punjab 36 years ago. In popular migrations between India and beyond, there has never been any ebb and flow. Those who have come have remained. The "*pax Indo-Britannica*," instead of welding the medley of miscellaneous tribes and races into one nation, is, so far as Punjab Musalmans are concerned, fusing them into one religious confraternity of bigots, and widening rather than closing the natural opposition of sentiments and interests which separate them from Hindus.

After Alexander came 1,000 years of darkness, illumed early in the seventh century by Moghal conquest of Upper India. a gleam of light projected over future ages by the itinerary and observations of the gentle Chinese pilgrim, who sought the scriptures of his faith in the fast relapsing home of its birth. Passing over the plundering inroads of Mahmud of Ghazni (*A. D.* 1001-1030) and the confusion of the next 300 years, we come to the great invasion of Tamerlane (*A. D.* 1398), and a century and a quarter later, to the conquest of Upper India by Baber, the founder of the Moghal dynasty, which, with one short break, lasted until the Sepoy Mutiny of 1857.

Although wise emperors, of whom the tolerant Akbar was chief, eschewed conversion by coercion, still from interested motives, and perhaps sometimes from conviction, great numbers of Hindus, particularly Rajputs and Jats, embraced Islam between the fourteenth and sixteenth centuries.

Proselytising was energetically pressed during the reign of the bigot Aurangzeb. His persecution of Sikhs and Mahrattas moulded both into military nations. Their rise to power imposed an insurmountable barrier to the progress of Islam in the Punjab. Aurangzeb's death in 1707 found the

Sikhs supreme in the centre of the Punjab and the Mahrattas in India south of Delhi. In 1761, Ahmed Shah, the last champion of Islam in India, swept through the Punjab, leaving death and desolation in his track, met the Mahrattas at Paniput, and after one of the bloodiest victories of modern times, retired Trans-Indus. During the next 50 years the Mahrattas in the east, the Sikhs in the centre, and the successors of Ahmed Shah in the west, struggled for supremacy in the Punjab. Famine, pestilence, and the sword, depopulated the land.

The present century dawned less hopelessly. We were masters of Delhi and westwards to the Sutlej. Runjeet Singh was the ruler of the Punjab Proper, and was gradually subduing its western half. By 1825 he had obtained a precarious hold over its Trans-Indus tracts. He died in 1839, and his kingdom, after six years of anarchy and two bloody wars with ourselves, passed into our hands in 1849.

Although war, famine, and pestilence had then for over a century been devastating the country, their combined effects were only visible in a contraction and concentration of population into strong centres, in the general absence of trees and relapse into primeval solitude of parts of the Punjab. No destruction of property was possible, which a year or two of peace could not replace. Accumulated wealth, except in the form of buried valuables, there was none. The villagers invariably lived in mud hovels or wicker-work sheds and huts; their household goods were simply earthenware pots and pans, a few sticks of furniture, and some mud-plastered grain-safes; their livestock, a few plough, oxen, and goats; their implements of agriculture, a wooden plough and rake, which any carpenter could put together in an hour.

State of village communities upon annexation. Upon annexation we found that none of the calamities which preceded our rule had dislocated or weakened the machinery of rural self-Government, by which villages and tribes had for ages kept their factors together as a collective cultivating or pastoral unit. While Sikhs, Mahrattas, and Afghans, were struggling together for dominion under the political organizations, which united them as such, thousands of Cis-Indus village and tribal communities—each a little *imperium in imperio*, with the working system of which no dominant political party or ruler—Sikhs excepted—ever interfered—blundered through their life-battles as their forefathers had done in partial oblivion of the larger events happening beyond their own limited horizons. Thus it was that within two years after annexation the Punjab was enjoying greater agricultural prosperity than its oldest inhabitants could remember. Trans-Indus, that is, in the tracts between the Indus and the mountains of Afghanistan and Biluchistan, held exclusively by dominant Pathan and Biluch tribes, the Sikhs invariably collected revenue at the sword's point.

Revenue system of the Sikhs. Upon the periodical visitations of their forces, some villagers removed their valuables, and even their door-frames, to inaccessible asylums in the hills; others resisted, and others compounded. In the Peshawar valley, hardly a village, from the Khyber to the Indus, escaped being plundered and burnt once or oftener. In Bannu, from 1823 to 1845, every third year the country was harried. The Sikh Durbar euphemistically termed the operation "the collection of revenue balances." In plain English, a devouring army marched through the valley, and took and destroyed all it could. Cis-Indus in the Salt Range and northern table-land tracts, Sikh tyranny, whilst leaving village

communities intact, drove the leading Musalman families and tribes into exile, or reduced them to the position of tenants. The Ghakhar tribe in particular, whose leading men with their retainers had for generations administered the country from Hazara to the Salt Range fell from their high position to that of mere tillers of the soil. Both south as well as north of the Salt Range, the revenue system of the Sikhs was simply to disallow any rights in land except those of the cultivator, to secure to him as much as sufficed for his subsistence and no more, and to the State all the profits of cultivation. There was no fixity of demand anywhere. The whole country was subdivided into districts and farmed out to revenue contractors, whether the highest bidders, or local chiefs, or nominal grantees. In some cases a quarter of the demand was remitted to the farmer to repay the expenses of collection. When service grants were made to some powerful Sikh chief, he generally left the management to agents, who were, in fact, petty farmers. Provided that the revenue was received at Lahore, no inquiries were made as to its mode of collection. If a farmer was murdered he was replaced by another. If an agrarian rising occurred, it was stamped out by fire and sword. At every harvest the demand varied with the mood and character of the farmer or governor. In the south-west of the province, with head-quarters at Mooltan, a Hindu farmer, named Sawan Mull, administered his charge from 1829 to 1844 with such rigour and justice that his name is still remembered with respect over an area as large as Scotland. He made life and property secure, caused canals to be cut, and was so successful in creating confidence, that he induced men to sink wells on long leases. In his time some hundreds of wells were sunk. Selfish and short-sighted though the Sikh

Diwan Sawan Mull's revenue administrations.

system was, still it had some virtues, which our's lacks. There being little money in circulation, most payments, including land-revenue, were made in kind. The revenue demand, therefore, corresponded with each season's yield. Self-interest limiting rapacity, the cultivator was always left a sufficiency of grain whereon to maintain himself and family until the next harvest. There being neither credit, nor money, nor civil courts, serious indebtedness was impossible. If advances of grain were made, the debt was repaid at harvest time, whenever there happened to be a good crop.

Finally, no State system of education existing, the agriculturists, being ignorant of better things, were content.

CHAPTER III.

THE PEOPLE.

By the latest census of 1881, the population of the Punjab, exclusive of its dependencies, is 18,850,437.

Its distribution is shown in the following statement:—

DIVISION.	Area in square miles.	POPULATION.			
		Musalman	Hindus.	Sikhs.	TOTAL.
Eastern ...	25,622	1,141,145	3,769,786	110,120	5,021,051
Central ...	19,218	3,699,736	2,574,174	936,740	7,210,650
Western { Northern table-land and Salt Range. South-western plain.	17,152	2,329,386	216,103	35,692	2,581,181
	44,640	3,352,535	567,426	37,708	3,957,669
Total ...	106,632	10,522,802	7,127,489	1,120,260	18,770,551*

In the Eastern Punjab 85 per cent. of the population is rural. The great agricultural tribes are Jats and Rajputs. They are still in the Himalayas what they were 2,000 years ago—simple, superstitious, idolatrous Hindus. The seclusion of their quiet valleys has left them children to this day. In the plains, contact with the outer-world and the war of creeds which the Mahomedan conquest of Upper India forced upon its peaceful inhabitants, constrained many to adopt the faith of their masters, and gave to all a manliness and shrewd energy of character which their hill congeners have not yet acquired. But whether Hindus or Musalmans, both are socially and politically one people, ancient tribal custom and the ties of blood being stronger than the separatist teachings of a half-learnt religion.

* The numbers of other religions, *viz.*, Christians, Buddhists, Jains, Zoroastrians, are so insignificant—only 79,886 in all—that I have purposely omitted them.

As to the agriculturists of the nine central districts, the two noticeable facts regarding them are, that those districts—Sialkot excepted—are the stronghold of Sikhism, and that in them Musalmans considerably outnumber both Hindus and Sikhs put together. As is the case in the eight districts further east, the central Musalmans are mostly the descendants of Hindu Jats, Rajputs, and minor agricultural tribes, converted during the reign of the Emperor Aurangzeb (1658-1707). Being stronger in numbers than their co-religionists eastwards, and the whole world to the west, so far their knowledge of it goes, presenting to their eyes one compact block of Musalman tribes, their Mahomedanism is of a more decided type than it is in the eastern districts. Up to the present time, however, the whole rural population of the Punjab east of the Jhelum meridian, whether Hindus or Musalmans, may be regarded, for all administrative purposes, as one people. They are untainted with religious animosities. They live side by side as peaceful cultivators, in happy indifference to the petty jealousies which superior knowledge stirs up in the hearts of their Hindu and Musalman brethren in the towns. There is, however, in Islam, wherever and in whatever degree of devotional intensity it exists, a latent ferocity which a small cause may at any time arouse into action.

Inhabitants of the Central Punjab.

Mahomedan revival.

Moreover, throughout the Punjab, if not throughout the whole Musalman world, a great Mahomedan revival has for some years been gathering strength. It began amongst the educated classes in the towns, and is slowly leavening the masses throughout the country.

This Mahomedan awakening is not a movement to be altogether encouraged. It has not begun with a consciousness of deficiencies and a determination to improve. It aims rather at a drawing together of all believers, with

a view, by the mere strength of numbers and united purpose, to the acquisition of material concessions. The fatalistic teachings of the prophet have been an accursed inheritance for all who have accepted them. Sikhism and Hinduism do not interfere with a man's natural desire to better himself in the world by his own exertions. Mahomedanism teaches its disciples to accept every misfortune as the will of "Allah." It unfits him for the struggle of life. Accordingly, we find, wherever Sikhs, Hindus, and Musalmans cultivate side by side, that the last-named are the worst farmers. Mr. Denzil Ibbetson has, at pages 103-104 of Volume I of his *Punjab Census Report*, admirably, though, in the case of Musalmans, too unfavourably, summarized the effects of the three religions,—Hinduism, Mahomedanism, and Sikhism,—upon character. I cannot do better than quote here what he has written.

As to Hinduism, he says :—

The effect of Hinduism upon the character of its followers is, perhaps, best described as being wholly negative. It troubles their souls with no problems, or conduct, or belief; it stirs them to no enthusiasm, either political or religious; it seeks no proselytes; it preaches no persecution; it is content to live and to let live. The characteristic of the Hindu is quiet, contented, and thrift. He tills his field; he feeds his Brahmin; he lets his womenfolk worship their gods, and accompanies them to the yearly festival at the local shrine; and his chief ambition is to build a brick-house, and to waste more money than his neighbour at his daughter's wedding.

As to Sikhism, he writes :—

The Sikh Jats of the Punjab are proverbially "the finest peasantry in India." Much no doubt is due to the sturdy independence and resolute industry which characterise the Jat of our eastern plains, whatever his religion. But much is also due to the freedom and boldness which the Sikh has inherited from the traditions of the Khalsa. I know of nothing more striking in the history of India than the bravery with which the Sikh fought against us, the contented cheerfulness with which he seems to have accepted defeat, and the loyalty with which he now serves and obeys us. It is barely

30 years since the Khalsa was the ruling power in the land, yet outside a few fanatical bodies, there is, so far as we know, no secret repining, no hankering after what has passed away. But the Sikh retains the energy and determination which made his name renowned, and, though still inclined to military service, carries them into the more peaceful pursuits of husbandry. In 1853 Sir Richard Temple wrote:—"The staunch foot-soldier has become the sturdy cultivator, and the brave officer is now the village elder; and their children now grasp the plough with the same strong hand with which the father wielded the sword." The prohibition against the use of tobacco has driven them to spirits and drugs, which are not unseldom indulged in to excess. But the evil is largely confined to the wealthier classes, and is more than counterbalanced by the manly love of field sports and open-air exercise, which their freedom from restraint in the matter of taking animal life and their natural pride, exercising and displaying that freedom, have engendered in them. The Sikh is more independent, more brave, more manly, than the Hindu, and no whit less industrious and thrifty; while he is less conceited than the Musalman, and not devoured by that carking discontent which so often seems to suppress the latter.

Finally, as to the effect of Islam upon the character of its followers, Mr. Ibbetson writes with caustic severity:—

It is curious how markedly for evil is the influence which conversion, to even the most impure form of
 Effect of Islam. Mahomedanism, has upon the character of the Punjab villager; how invariably it fills him with false pride and conceit, disinclines him for honest toil, and renders him more extravagant, less thrifty, less contented, and less well-to-do, than his Hindu neighbour. It is natural enough that the Pathan or Biluch of the frontier, but lately reclaimed from the wild independence of his native hills, should still consider fighting as the one occupation worthy of his attention. It is hardly to be wondered at that the still semi-nomad Musalman tribes of the western plains should look upon the ceaseless labour of the husbandman as irksome. When we move through a tract inhabited by Hindus and Musalmans belonging to the same tribe, descended from the same ancestor, and living under the same conditions, and find that as we pass each village, each field, each house, we can tell the religion of its owner by the greater idleness, poverty, and pretension, which mark the Musalman, it is difficult to suggest any explanation of the fact. It can hardly be that the Musalman branch of a village enjoyed under the Mahomedan Emperors any such material advantage over their Hindu brethren as could develop habits of pride and extravagance, which should survive generations of equality, and yet, whatever the reason, the existence

Accordingly, we find that quite two-thirds of the residents of towns are Hindus. Of the whole population, 91 per cent. is rural, and of that population 92 per cent. are Musalmans.

The following table shows the relative numbers of the chief Musalman tribes and castes, in order of political importance in their respective localities :—

Serial number.	Name of tribe or caste.	Number.	Percentage to grand total of Musalmans.	Distribution.
1	Pathans (Afghans).	745,000	19	Chiefly in the Hazara district, and Trans-Indus, as far south as the southern boundary of the Dera-Ismail-Khan district.
2	Biluches. ...	279,000	7	Trans-Indus, in the Dera-Ghazi-Khan district, also in adjacent Cis-Indus tracts.
3	Jats. ...	1,082,000	27	Thickest throughout the southwestern plain, but to be found everywhere.
4	Rajputs (535,000) including Karials, 10,000 Khakhars, 36,000 Kharrals, 19,000	600,000	15	Throughout submontane tracts in the northern table-land (Cis-Indus), also south of the Salt Range in the Mooltan, Jhang, and Montgomery districts.
5	Syads, Shekhs, and Uluma.	272,000	7	Everywhere, but thickest north of the Salt Range.
6	Awans. ...	485,000	12	Throughout Gujrat and the northern table-land (Cis-Indus) generally, also in the Peshawar valley, Salt Range, and Kohat.
7	Gujars. ...	215,000	5	Throughout Gujrat and the northern table-land (Cis-Indus) generally, also in the Peshawar valley.
8	Ghakhars. ...	26,000	1	Almost exclusively in the Rawalpindi, Hazara, and Jhelum districts of the northern table-land.
9	Moghels and Turks.	68,000	2	North-west corner of northern table-land, viz., in the Rawalpindi, Hazara, and Peshawar districts.
10	Arains including Bhagwans.	134,000	3	Everywhere.
11	Miscellaneous. ...	94,000	2	Ditto.
	Total ...	4,000,000	100	

The remaining two and a half millions of Musalmans belong to a variety of insignificant tribes and castes, and are found throughout most districts interspersed with the general population. Many are cultivators, and most, directly or indirectly, depend on agriculture for their livelihood. Some are refugees from neighbouring states, as for instance, Cashmiris, who number a lakh, and are chiefly concentrated in Rawalpindi, Shahpur, and Ludhiana. Of the menial and artisan classes, it is only necessary to mention that every rural community maintains a staff of village servants, such as scavengers, carpenters, workers in leather, and blacksmiths, who receive for their services fixed grain-payments at harvest time. There is also in every village a number of low caste professionals,—barbers, weavers, potters, oil-pressers, dyers and washers, butchers, &c.—all useful members of every cultivating republic,—who, like the village menials, in addition to practising their hereditary callings, also work as field labourers or cultivators, and not unfrequently own land. The number of the village menial and professional classes aggregate over a million and a quarter. Watermen number 225,000 ; workers in metals, 45,000 ; and Musalman traders known as Khojahs and Piràchas—mostly converts from Hinduism—30,000. A miscellaneous assortment of low castes, nomads, and beggars, many of whom do field work at harvest time, make up the complement.

CHAPTER IV.

THE MUSALMAN TRIBES OF THE WESTERN PUNJAB.

REVERTING to the dominant agricultural tribes, the leading characteristics of each will now be described in the order followed in the table given at page 18.*

I.—PATHANS—745,000.

Pathans. All those whose mother-tongue is Pushto, are indiscriminately styled Pathans or Afghans by the natives of India. Whether originally distinct or not, both are now practically one race, and have common characteristics. They are divided into numerous tribes, sections, and sub-sections, each with a common ancestor, from whom its distinctive name is known. Many trace their common descent from Kesh, the father of Saul, first King of Israel, and all take pride in an accurate acquaintance with their genealogical trees. The ancestors of the various tribes settled along our North-West Frontier in Hazara, Cis-Indus, and in our Trans-Indus districts, from Peshawar on the north to Vehowa, 250 miles to the south, were early converted to Islam, and have, after various inter-tribal movements in their mountain homes beyond our border, been gradually pushed eastwards into their present locations within the last few hundred years. South of Kohat their colonisation of the country lying between the Suliman Range and the valley of the Indus, was effected by ousting or absorbing and reducing to dependence the earlier occupants, particularly Jats. A final

* In Chapters III, IV, and V, I have generally followed the figures and facts of Mr. Ibbetson's *Punjab Census Report*, supplementing the latter with information drawn from personal knowledge.



stop was put to it by the British annexation of the Punjab. Since then, owing to the continuous non-intervention policy of Government, as well as to the divergence of interests which that policy encouraged, intercourse between low-land Pathans, who are British subjects, and their independent high-land neighbours, has greatly diminished. Still it sufficiently exists to keep mutual sympathy alive in all matters which do not directly affect the conflicting material interests of either. The right of asylum is never denied by independent hillmen to a refugee from British justice. The exciting cause of many frontier blockades and military expeditions has been due to the warmth with which a hill tribe has taken up an outlaw's case. Physically, Pathans are fine men—tall, strong, and active. They make good soldiers, but bad husbandmen. The restraints of discipline or love of home operates to prevent any of the youth of some tribes from taking service in our native army. But, generally, Pathans enlist freely, and fight splendidly for us. At home, Pathans are democrats to a man, every able-bodied man having an equal voice in whatever affects the common weal. Individually they are proud, suspicious, and treacherous. The truth of their saying—*Afghàn be imàn* (faithless)—is laughingly acknowledged by themselves. They are all bigoted and fanatical Mahomedans, entirely under the influence of their priests, who swarm wherever the soil is rich and fertile. They are impatient of control of any sort. If consulted to-morrow, a majority—Marwats and, possibly, Khataks excepted—would, from mere love of devilry, vote for the abolition of British rule, although aware that our withdrawal would lead to anarchy. In their own hills the Hindu shop-keeper and money-lender is still a humble dependent, who dares not own land. In the plains we are rapidly making him the master of his

natural land ; and the latter consequently, whilst despising him as a coward, yet hates and fears him. In Tank, in the Dera-Ismail-Khan district, in January 1881, a rumoured reverse to our army in Afghanistan caused the whole Pathan population to rise, and the first use they made of their temporary authority, was to wreak vengeance on their Hindu creditors.

II.—BILUCHES—279,000.

They are of Arab descent, and appear to have been gradually thrust eastwards into Sindh in the fifteenth century, whence they spread northwards up the Indus Valley and through the southern portion of the Suliman Range, subjecting in their progress many Jat tribes. Where strong in numbers, as in Dera-Ghazi-Khan, their tribal organisation is as perfect in British territory as it is in the hills of Biluchistan. They are the inveterate foes of all Pathans, and contrast favourably with them in many respects, being unbigoted, truthful, simple-minded, tractable, and owing unfaltering allegiance to their tribal chiefs. Despising labour and loving sport, they are bad husbandmen, but good riders. To own a mare is the ambition of every true Biluch. His dry climate makes him a grazier rather than a grower of corn. He is a nomad by force of circumstances, an Esau by nature, and an Ismaelite from love of fighting, his hand being against all who are not his brethren. Like the Pathan, he has a lordly disdain for the Hindu, and terms him contemptuously *Kirār*, whether trader, money-lender, or otherwise. Trans-Indus the strength of the clan organisations, the support wisely bestowed by Government on the authority of tribal chiefs, and the local policy of the earlier Deputy Commissioners, have combined to keep the *Kirār* to his true vocation, that of trader and

petty money-lender ; hence the Biluch is, or rather was, until a few years ago, still lord of his own lands.

Legal practitioners are now slowly bringing Dera-Ghazi-Khan within the sphere of their mischievous business operations.* The railway extension to the Kureshi Ferry on the Indus, opposite Dera-Ghazi-Khan, will be opened in a few months, and with that the district will be invaded by hungry pleaders and *mukhtars*, and then the demoralisation of the Biluches and the disintegration of the clan organisation will go on rapidly.

Cis-Indus the Biluches hold villages rather than tracts, have lost most of their tribal characteristics, and have settled down into the position of easy-going landlords and indifferent cultivators.

When a Biluch takes military service, he makes a good sepoy. As a rule, love of home and perhaps the irksomeness of discipline, make a soldier's life unattractive to him. Still many do enlist, and there are, I believe, purely Biluch-regiments in the Bombay army. His idiosyncrasies would be met, were irregular corps raised on the model of the Cossack regimental system, for local service in Biluchistan and beyond, in war time. A corps of Biluch guides has, I believe, been lately raised in the Bolan Pass and elsewhere in Biluchistan.

* To give an instance. Some years ago a boundary case between the Mazari and the Drishak clans was settled on the spot in an irregular, but still just, manner, by a late Deputy Commissioner of the district. When that Deputy Commissioner had been transferred, the Drishak chief went to Lahore, and finding a civil action was still open to him, brought a suit in the native Judge's Court at Dera-Ghazi-Khan. I was on circuit in the spring of 1885, in the Muzaffargarh district, and there first met the Mazari chief returning in triumph with an English pleader from Lahore. Some miles further on I met the Drishak chief's agent, and told him what his master's rival had done. He laughed, and said he had failed to get an Englishman, but had brought back two native pleaders instead. Neither chief would, a few years previously, have dreamt of appealing to the law and to lawyers in order to dispute his Deputy Commissioner's order. Now the two chiefs will spend thousands of rupees, and in the end the Deputy Commissioner's order will be maintained or a worse one given.

III.—JATS—1,082,000.

The numerous tribes, now comprehensively termed
 Jats: Musalman Jats, are undoubtedly of mixed
 Aryan and Scythian origin, include all those strong agricultural and pastoral tribes who have no distinctive ethnology of their own, and who by popular voice have failed to make good a claim to Rajput descent. They compose the great body of the peasantry in the south-western plains. Trans-Indus the superior cohesion and fighting powers of Pathans and Biluches has in recent times reduced them to a less important social and political status than they have for centuries held on the Cis-Indus side. They were converted to Islam in the fourteenth and fifteenth centuries. Having changed their religion to suit their interests, it is no reproach to them to say that their new creed sits as lightly on them as does Christianity on most Englishmen. Amongst them there is probably a greater percentage of devout Mahomedans than of truly pious Christians amongst us. The great mass of them believe vaguely in God and his Prophet, and content themselves by repeating the creed occasionally as their whole confession of faith, and by accepting as the will of God any misfortune which may befall them.

Comprising as they do a congeries of different tribes, not one of whose origins has been certainly ascertained, it is difficult to sum up their salient characteristics in a few lines. Physically, the Mahomedan Jat, wherever found, is a fine man: mentally, he is an unaspiring dunce. From the Jhelum meridian he is progressively westwards, more and more hopelessly stupid, and indifferent to all things outside his hereditary calling. Collectively, the Jats have been well described in the following lines* :—

From an economical and administrative point of view, he is the husbandman, the peasant, the revenue-payer *par excellence*

* Page 221 of *Census Report, Punjab, 1881*, Vol. I, para. 423.

of the province. His manners do not bear the impress of generations of wild freedom which marks the races of our frontier mountains. But he is more honest, more industrious, more sturdy, and no less manly than they. Sturdy independence indeed and patient, vigorous labour are his strongest characteristics. The Jat is, of all Punjab races, the most impatient of tribal or communal control, and the one which asserts the freedom of the individual most strongly. In tracts where, as in Rohtak, the Jat tribes have the field to themselves, and are compelled, in default of rival castes as enemies, to fall back upon each other for somebody to quarrel with, the tribal ties are strong. But, as a rule, a Jat is a man who does what seems right in his own eyes, and sometimes what seems wrong also, and will not be said nay by any man. I do not mean, however, that he is turbulent: as a rule, he is very far from being so. He is independent, and he is self-willed; but he is reasonable, peaceably inclined if left alone, and not difficult to manage. He is usually content to cultivate his fields and pay his revenue in peace and quietness if people will let him do so; though, when he does go wrong, he "takes to anything, from gambling to murder, with perhaps a preference for stealing other people's wives and cattle" * * * *

Such is the Jat peasant. As such, he falls an easy prey to the money-lender. His rustic speech, which some one has well said changes every ten miles, is barely comprehensible to a few of our best Settlement and District Officers, and is not well understood by the class of natives termed Munsiffs, who now decide disputes between him and his banker. The Jat landed proprietor is, however, often a man of energy and intelligence, a good manager and successful farmer.*

IV.—RAJPUTS—600,000.

The Rajput tribes are all of Aryan stock, and are found intermixed with those classed as
 Rajputs. Jats. Those latter, however, preponderate in the south-western plain, whereas the former are most numerous in the Salt Range, in Jhang, and Montgomery, and throughout the northern table-land Cis-Indus.

* *Mooltan Settlement Report*, page 29.

The line of distinction between the two is very fine. Only noble tribes of undoubtedly Hindu origin, who have, at some period in history, admittedly risen to political eminence, are now recognised as Musalman Rajputs. Their conversion to Islam dates probably like that of the less aristocratic Jats from the fourteenth century. Jats are essentially simple, whereas Rajputs are gentlefolk, and however poor, very proud of their gentility. Looking on manual labour as derogatory, they for centuries maintained themselves as graziers and fighters, and have only recently subsided into the position of peaceful cultivators. They left the production of corn to the yeomanry of the land—the Jats and inferior castes—who paid them as territorial lords a portion of each crop. When the Sikh commonwealth became all-powerful, that warrior confederacy disregarded such pretensions. Materially and politically, the Sikh Government gained by the practical application of its doctrine, that in tracts held by conquered tribes the State is the sole landlord, and, as such, entitled to the whole rent. The Rajput tribes, after a vain resistance, succumbed to superior force, and had to starve or become tillers of the soil. Under the equal justice of British rule, many have recovered certain seignorial rights, which were in abeyance during the Sikh dominion. As, however, the feudal instinct has always been strong amongst Rajputs, the authority of the tribal chiefs was never lost; consequently it is families, rather than clans, who have specially benefited by the conservative tendency of British administrators. Collectively, Musalman Rajputs are a high-spirited people, proud of their illustrious lineage, and ever regretfully mindful of their past greatness. The poorer clans are inferior as cultivators to the Musalman Jats, being less energetic and more thriftless. The more distinguished clans, and particularly their

leading families, in addition to the failings of being unlaborious and improvident, are, so long as money can be borrowed of extravagant habits. Thus the position of Rajputs is now distinctly worse than it was, say, 20 years ago, and there is no reason for expecting that it will improve in future. And yet in intelligence a typical Rajput is superior to a typical Jat, because his family traditions make him a wider observer than his humbler brother, whose sole aspirations are contained in the prayer—"Give me each day my daily bread, and keep my land from the clutches of the Bunniah." The Rajput, too, talks a less uncouth dialect than the Jat, and is altogether more of a gentleman, though, on the whole, economically perhaps a less useful subject.

Mr. Ibbetson, writing of the Punjab Rajputs generally, whether Musalmans or Hindus, says* :—

They are fine, brave men, and retain the feudal instinct more strongly developed than perhaps any other non-menial caste, the tribal heads wielding extraordinary authority. They are very tenacious of the integrity of their communal property in the village lands, seldom admitting strangers to share it with them. Pride of blood is their strongest characteristic, for pride of blood is the very essence of their Rajputhood. They are lazy and poor husbandmen, and much prefer pastoral to agricultural pursuits, looking upon all manual labor as derogatory, and upon the actual operation of ploughing as degrading; and it is only the poorest class of Rajput who will himself follow the plough. They are, in most parts of the Punjab plains, cattle-stealers by ancestral profession; but they exercise their calling in a gentlemanly way, and there is certainly honour among Rajput thieves.

Rajputs are in great requisition for the army, but do not, I believe, freely enlist.

V.—SYADS, SHEKHS, AND ULUMA—272,000.

Half of this division, which includes all holy and

Holy and learned learned Mahomedans, are Syads, the classes.

true priestly class, who claim descent from Ali, the son-in-law of the Prophet. The others are

* Page 237 of *Census Report, Punjab, 1881*, Vol. I, para. 441

of various origin,—recruits from Arab, Kuresh, and Pathan tribes, and even include Hindu proselytes and low caste scholars. The pretensions to learning of many of them are undoubtedly of the poorest, and yet they are the infallible guides and leaders of our Musalman peasantry in things secular as well as religious. The three classes are most numerous wherever the soil is fertile and the people ignorant and superstitious. Trans-Indus the rich Peshawar and Bannu valleys team with saintly Syads, Shekhs, and Uluma, all professing to be learned doctors of law or divinity. Cis-Indus throughout the southern plains, except in the neighbourhood of Mooltan, their numbers are small, as the stolid homely Jats have few material inducements to offer to holy or learned adventurers, and have hitherto proved themselves unimpressionable. In the Salt Range, and in the Hazara and Rawalpindi districts, Syads hold a goodly inheritance. Although their influence is on the wane, it is still greater than that of any other class. No Syad is without reverence in his own country or elsewhere. However ignorant or ignoble, he still belongs to the Levitical caste, and, as such, wields immense influence. Amongst Shekhs, only those who are believed to be true Kureshis, that is, belong to the Arab tribe to which the Prophet belonged, have much authority. So many are indolent pretenders and men of dissolute lives that the title is looked on with suspicion. Most Mahomedan shrines of repute have a colony of Kureshi Shekhs attached to them. As to the Uluma,* whoever has once been recognised as a learned doctor of law (Kàzi), or of divinity (Moolla), becomes one, and his descendants generally retain the title. Such men give the children of Musalmans, most if not all, the religious and school

* This word is properly the plural of *'ālim*, learned.

training they ever receive. What is called an indigenous school is attached to almost every mosque, and in this the boys are taught their creed and to gabble the Koran in Arabic. Few peasants as yet send their sons to Government schools, though all pay the compulsory educational cess. It is no exaggeration to say that the influence of the holy and learned classes over the mass of the peasantry is as absolute as that of the Roman Catholic priesthood in Ireland over their flocks. Recognising this, the British Government on annexation and subsequently, generally maintained, and even enhanced, the rent-free grants and privileges enjoyed by such classes under former Governments. On the whole, however, the advent of a strong, impartial foreign Government, such as ours, has been detrimental to the interests and expectations of these classes. Being treated like common men—sued for debt even by a vile Kirār—being no longer consulted and deferred to by Government officials, their exclusive pretensions to learning being daily, from the spread of knowledge and the cheapness of books, more and more exposed to ridicule, they resent their relegation to insignificance. As a body, they are sullen and disloyal. Were a fair opportunity to offer, they would risk the loss of their privileges, preach sedition, and incite the people to insurrection. As cultivators, they are lazy and thriftless. So long as no common grievance can be found to excite the peasantry against Government, so long will the attitude of the holy and learned classes be a matter of indifference to the ruling power.

VI.—AWANS—485,000.

The Awans apparently spread into the Punjab from
Afghanistan in the eleventh century,
Awans. but may have been settled throughout
the Salt Range, which is their stronghold, at a much earlier date. They claim descent from one Kutub Shah, a

son-in-law of Mahomed, by a wife other than the Prophet's daughter, and pride themselves on their connection with him. Whatever their origin, they have been settled in their present locations for upwards of six hundred years, and are a fine, high-spirited clannish race. They are very numerous throughout the Salt Range and in the northern table-land. The large number found in the districts of Peshawar, Kohat, Hazara, and particularly in Rawalpindi, indicates the probable truth of their own traditions that they entered India by Peshawar. They are a race of peasant cultivators, fairly industrious and altogether good subjects, though split up into factions amongst themselves. They are physically a strong, broad-shouldered race. They generally prefer home and poverty to service in the army, with a chance of going to Burma or elsewhere.

VII.—GUJARS—215,000.

This people is probably of Tartar origin. They were
supreme in the Peshawar valley about a
Gujars. century before Christ. Since then they
have had a chequered history, and are now very scattered. It is only in the Gujrat district and the neighbouring sub-montane tracts in which they still retain a dominant position. The conversion of those settled west of Jhelum from Hinduism to Islam, is believed to date from the seventeenth century. In social standing, Mahomedan Gujars rank somewhat below Jats; some are excellent farmers—quiet, industrious, and tractable; many still prefer a pastoral to a cultivating life. The buffets of fortune, paucity of numbers, and the want of able leaders in troubled times, seem to have evilly affected their tribal character; so much so that the typical Gujar is regarded as indolent, thriftless, turbulent, and poor-spirited. He is not held in esteem by superior tribes, such as Rajputs and Awans. He is happy if a Jat

fraternizes with him, and is hail fellow well met, with men belonging to what I may call handicraft Musalman castes. He is as little dissatisfied with our rule as he could be with any other, but is more likely to give trouble, should an opportunity present itself, than any other Cis-Indus tribe.

VIII.—GHAKHARS—26,000.

Until subdued by the Sikhs, this small tribe had an illustrious history. They appear at one time to have overrun Cashmere and Tibet, and were certainly the ruling people in their present habitations—Rawalpindi, Hazara, and Jhelum—long before Mahmud of Ghazni's invasions of India in the eleventh century. They accepted Islam in the fourteenth century, and during the Moghal dynasty their chiefs, as lieutenants of the emperor, ruled the Punjab north of the Salt Range. The Sikhs reduced them to a level with Jat cultivators, but failed to break their high spirit. Since annexation the British Government has dealt generously with them, restoring some of their old seignorial rights, and granting them cash allowances and other favours. As a clan they are proud and exclusive. Their women, if marrying out of the tribe, are given only to Syads and blue-blooded Rajputs. Their chief men are gentlemanly and polished. Their past greatness, their inherited high breeding, and their disdain for manual work other than soldiering—military service is very popular with them—combine to make them indolent farmers and extravagant landlords. A large percentage, including most of their leading men, are consequently deeply involved in debt; and twenty years hence will, unless protected against themselves, be as poor as they were under the Sikhs. Under such circumstances it is problematical whether their present loyalty will survive impoverishment.

IX.—MOGHALS AND TURKS—68,000.

These classes are chiefly confined to the north-west corner of the Punjab. Like the Ghakhars, they are most numerous in Hazara, Rawalpindi, and Jhelum. Their distribution follows the route taken by Moghal armies. Many no doubt entered with Baber: many afterwards, being sure of a welcome under the dynasty of his successors: many, too, who have dubbed themselves Moghal or Turk, are believed to have no claim to the title. Collectively, they are proud and indolent, and are disliked by all agricultural tribes as overbearing foreigners. A good number of Moghals are in Government service, and occupy positions of trust and responsibility.

X.—ARAINS AND NONDESCRIPT CASTES—228,000.

They are all humble cultivators of mixed origin, and appear to have been settled from time immemorial throughout the Punjab, chiefly in the vicinity of towns and large villages, wherever hard labour would yield a certain crop. The Arain class, which numbers a lakh, are many of them simply market-gardeners, either tenants or self-cultivating owners. Their holdings are generally very small—from one to three or four acres only. They are most numerous in the Rawalpindi, Jhelum, and Mooltan districts. Under British rule their position has been greatly strengthened and improved. They are rather acquiring than losing land, and are so frugal and industrious that the money-lender has few terrors for them. They are of no more political importance than the patient oxen which carry manure to their fields.

Generalising from the descriptive sketch above given, we find that the Western or Mahomedan half of the Punjab is occupied by nearly six millions of hardy Musalman peasants, who are divided

Arains and miscellaneous cultivators.

General view of tribal allocation.

into a congeries of tribes, each of which has been, and still is, dominant in a different tract of country.

On the frontier, Afghans to the north and Biluches to the south ; in the southern plains, Jats in the Salt Range ; and in the northern table-land, Rajputs, Awans, Ghakhars, and Gujars, make up the people of the Western Punjab. It is from those tribes—the Gujars excepted—that the bulk of the Mahomedans serving in the Bengal Army, in the Punjab Frontier Force, and in the Punjab Constabulary, are recruited. Numbers have recently been enlisted for the new Burmese Police.

CHAPTER V.

HINDUS AND SIKHS OF THE WESTERN DIVISION, AND
THEIR OCCUPATIONS.

IN addition to the Musalman peasantry, with their dependents and a sprinkling of Sikh and Hindu cultivators, is a large urban and mercantile population, chiefly composed of Hindus. The Sikhs, who only number 73,000, are found in Montgomery and throughout the northern table-land, mostly intermixed with Ghakhars, Gujars, and Moghals, all of whom the Sikh Government systematically suppressed. A large proportion of those so-called Sikhs are not true Jat Sikhs, but Khatri Sikhs, and, as such, more devoted to mercantile pursuits than to farming.

As to the Hindus, they number 783,000, of whom 31 per cent. are urban, and 69 per cent. rural.

They may be conveniently grouped under three heads—
Brahmans, vagrants, and traders. The first-named number 73,000, and are most numerous in the northern table-land, particularly in the Rawalpindi and Jhelum districts. They all belong to the sacerdotal caste, and, as such, receive reverence. The majority supplement their income received in dues and alms by husbandry. They are poor cultivators, being too arrogant for hard manual labour. They are, as a class, grasping and overbearing, tolerated and feared as being Levites by their co-religionists, and detested by Musalmans, especially on the frontier. Under the second head “vagrants,” of whom there are about a lakh, I include that numerous family of Hindu impostors and scamps known as fakirs, jogis, beggars, and gipsies. They live by preying upon the superstitions and fears of the credulous. They abound

wherever Hindus are numerous, particularly Cis-Indus, in the northern table-land. Under the third head "traders"

Traders.

I include all Aroras, Khatris, Bhatias, and Bunniahs, who unitedly amount to 610,000.* I shall describe them in some detail. They deserve description, as in some sense we govern India chiefly to their advantage, and are thereby jeopardising the stability of our hold on the affections of the people, that is, on rural India, and thus helping petty shop-keepers and money-lenders to exploit the country for their own benefit. Throughout the Punjab, if not throughout India, with the exception of that serio-comic phenomenon—the educated Bengali of the "young Bengal" school—they emphatically derive most profit from our rule, whilst contributing little to its expenses, and nothing to its strength.

Cis-Indus British officers, as well as most Musalmans, loosely term all Hindu merchants and shop-keepers, Bunniahs or Khatris, whilst Trans-Indus and south of the Salt Range they are lumped together under the exasperatingly opprobrious epithet "Kirār." This popular indifference to their many clearly-defined divisions and sub-divisions is not indicative of the general dislike to the calling and character of the Hindu trader, but is due to his political insignificance, and to the unobtrusive persistence with which he pursues his business. It is sufficient for our purpose to here state that the true Bunniah is hardly known west of Lahore, that the Khatris are most numerous wherever the Sikh element is well represented, that is, in the northern table-land, and that Aroras preponderate in the south-western plain, particularly in the Derajat and the neighbourhood of Mooltan. The Punjab is not the original habitat of either Bunniah

* All that is known of them is excellently condensed by Mr. Ibbetson in pages 291-298 of Vol. I of his *Punjab Census Report*, 1880.

or Arora, who both spread into it from the south and south-east. Both first settled in towns in which Khatris were already established, and then from such centres gradually started shops in villages, and diffused themselves by ones and twos amongst the agricultural community. A genuine Khatri is a very capable man intellectually, but no soldier. Many famous administrators have been Khatris,—for instance, Todar Mull, the Emperor Akbar's great Financial Minister, and Diwan Sawan Mull, the successful Governor of Mooltan, from 1821 to 1843.

The Aroras are lower in the social scale than Khatris, and altogether, where it is possible to draw a distinction, inferior to them.

Aroras.

A fourth group deserves mention—the Bhatias—a Rajput class, who have taken to commercial pursuits, and are strong in Gujrat. The respective numbers of the different classes are:—Aroras, 417,000 ; Khatris, 174,000 ; Bhatias, 14,000, and true Bunniahs, 5,000. As with respect to them all the occupation has in each case made the man, I shall write of them collectively by the loose general designation of “Bunniah.” It is the one most

Loose designation of Bunniah adopted for all.

familiar to Englishmen. Of the whole group, probably not more than 25,000 are self-cultivating proprietors, though twice that number draw large incomes from the land, having acquired a hold on it since annexation by mortgage and purchase. With the exception of 30,000 Khojahs and Pirachas, mostly descended from Hindu perverts to Islam, who still follow commercial pursuits, the whole trade of the Punjab—other than that in live-stock, meat, vegetables, liquor and carrying—is in the hands of the Bunniahs. A very small percentage of them are assessed to income tax—the only form of imperial taxation which directly reaches

them. The vast majority are petty village traders and shop-keepers, whose annual net profits range from Rs. 200 to Rs. 500. A few—perhaps one in a thousand, as successful bankers, merchants or contractors on a large scale—are now men of great or considerable wealth, and deservedly respected.

As a body, the Bunniahs are men of miserable physique and no manliness of character. They

The Bunniahs as traders and money-lenders.

spend their lives in their shops, and devote all their time to money-making. Being naturally shrewd and unprincipled, they are as proficient in that art as Jews or Greeks. Shylock was a gentleman by the side of Nand Lall Bunniah,—as Shylock, though he spoiled the Gentiles, was yet a man of honor. Nand Lall has none, commercially speaking. His greed for gain, the shameless effrontery with which he adds 50 per cent. to a debt, calls the total principal, causes his debtor to execute a bond for that principal with interest at 36 per cent per annum more, a year or two after strikes a balance against his debtor and cajoles or wearies him into mortgaging to him an ancestral plot of good land or its produce, on the understanding—carefully excluded from the deed—that mortgagor is to remain in cultivating possession, have entirely alienated the sympathies of district officers from men of his calling. Such hard business qualities make him feared, hated, and despised by the agricultural classes. Upon annexation the village Bunniah—except in the vicinity of centres of Sikh administration, such as Lahore, Umritsur, and Mooltan—was a poor, cringing creature, who, when he lent money, received payment out of the surplus of the first good yield, and never attempted to exact usurious interest because he knew it would not be paid. He was essentially, as previously stated, the humble accountant and servant of the dominant class—the

agricultural community. Many are so still. But a large and growing minority are now men in comparatively easy circumstances, as traders, money-lenders, and petty landlords combined, or traders and money-lenders alone, with Rs. 1,000 or more lent out on landed security, carrying interest in grain or cash, at from Rs. 18 to Rs. 36 per cent. per annum.

Why Bunniahs succeed. Their success is largely due to their own thrift and business energy. A Hindu's thrift shows itself remarkably in his domestic economies ; for however rich he may have become, he continues to live almost as parsimoniously as when he was very poor. He is only occasionally extravagant on ceremonial occasions, as when a marriage occurs. Nor does he grudge expenditure which satisfies ostentation and is also a safe investment. As soon as he has money to spare, he builds himself a handsome pucca mansion, lofty enough to excite envy, hatred, and malice in the hearts of his lowly neighbours, whose weaknesses have translated him from the position of servant to that of master. In western villages, and probably elsewhere also, there is never any occasion to ask whose is the best and most conspicuous house in a village, as with spite in his heart and scorn in his voice, the peasant's answer will certainly be "the Kirār's." Frugal and astute though the Bunniah is, he could never have risen to his present eminence by thrift and the exercise of business qualities alone, had not our laws and revenue system suited his idiosyncrasies and been antagonistic to those of the peasantry.

Analysis of census figures of Bunniahs. According to the 1881 census, there are west of the Jhelum meridian 28,987, or, in round numbers, 29,000 males over 15 years of age, "who buy or sell, keep or lend money, houses or foods of various kinds." Of this class 9,610

are bankers and money-lenders, and 13,294 shop-keepers only. Of the former, it is worth noting that no fewer than 3,413, and of the latter 8,967, belong to frontier districts. Of those returned as shop-keepers only, it is probable that fully 25 per cent. derive some income from the interest of debts secured on bonds or mortgages. Accepting the census figures, so supplemented, as approximately correct, and trebling the product so as to obtain total numbers, the point to which I would draw attention at present is, that nearly six millions of Mahomedan peasants and their dependents are under the operations of laws and revenue system created by us within the last 36 years, being harassed and expropriated in the interest of some 40,000 Bunniah, who contribute little to the

Independent native criticisms on "our system." expenses of Government, and would be a source of weakness to it in critical times.

We justly boast of the purity and excellence of our Indian administration, and plume ourselves that we are not, as the rulers of native States, venal, unjust, and indifferent to progress. True at present perhaps. But thirty years* hence, should the policy of equal laws on European models for all classes be persisted in, what will be true then? Will not those very States as justly be entitled to regard our vaunted justice and other excellencies as Pharasaical nonsense, when they see half of our magnificent peasantry the bondsmen of Bunniahs, sullenly biding an opportunity to rise and sweep away their weak and despised task-masters?

To me, as to most other old Settlement and District

Have we done the best possible for "the people of India." Officers, the whole position is unsound and humiliating. Will any one say that we, as rulers in the Punjab or elsewhere,

I have done the best possible for our peasantry, whether Mahomedan, Sikh or Hindu, who—I cannot repeat too

often—are “the people of India?” Are our laws and revenue system so framed and so administered that, without material change, their natural evolution will, when trouble comes, identify the interests of the peasantry with ours?

The question which Lord Lytton asked his Council in the discussion preceding the passing of the Deccan Ryots Act in 1879, I would address to those in authority in India. “I would ask the Council,” said Lord Lytton, “is it not obvious that if in any part of India the actual cultivators of the soil see, not only the proceeds of their labor, but actually their personal freedom, passing from them into the hands of a class whom, rightly or wrongly, they regard as the authors of their ruin, and under the protection of laws which, rightly or wrongly, they regard as the engines of it, the bitterness of sentiment, the sense of hopelessness and irremediable wrong engendered by such a state of things, must be a chronic incentive, if not to social disturbances, at least to personal crime?”

In the following pages I shall endeavour to answer the questions put forward in the last two paragraphs, and to propose remedies which, if applied, will, I believe, save us from, what must otherwise eventuate in a generation or two, an agrarian insurrection. Most of my personal experience is in the Musalman half of the Punjab. I think that those

Dangers of persistence in *laissez aller*. who best know the peasantry there, will agree with me that without some radical changes in the substantive civil law and its mode of administration, and for certain tracts in the revenue system, the impatience which now finds expression in the occasional murder, mal-treatment or plundering of an obnoxious money-lender, or in resistance to the attachment of cattle or grain, or other necessary of life, will soon grow into widespread disaffection. The fuel will then be ready for ignition, and a spark—a sympathetic breeze down the frontier from that

hot-bed of Mahomedan fanaticism—Afghanistan—a famine, the exhortations of an agitator, whether aspiring Mahdi or land-law reformer—will kindle such a flame that Government will, in order to quench it hurriedly and fearfully, pass some Act of Bunniah spoliation more drastic than the famous Deccan Ryots Act of 1879. The object then of the following pages is to convince those in authority of our shortcomings as rulers in the Western Punjab, and to urge the timely application of practicable remedies.

CHAPTER VI.

THE REVENUE SYSTEM IN THE PUNJAB BEFORE AND SINCE ANNEXATION CONTRASTED.

FROM the death of the Emperor Aurangzeb (1707) until Maharaja Runjeet Singh had completed the conquest of the Western Punjab (1823), that country was without a central Government. Throughout each domain, the strongest tribe, acting collectively, or moved by some master-spirit of the day, ruled all weaker tribes and castes. The state of society was then what it is now in the independent hills beyond our N.-W. Frontier. Loosely-defined tribal, and even sectional village boundaries were recognised, jealously guarded, and frequently fought over. Within them, according to the ebb and flow of public opinion and private feud, the little entities composing the tribe or community, shifted about, now in friendly union, now in hostile severance. Party strife, however, except amongst Pathans, was never allowed to weaken the tribe collectively, and was always in abeyance against danger from without. The shop-keeping and trading classes pursued their respective avocations, as humble dependents and servants of the strong men of the day. There was little intercourse between tribe and tribe. Such a state of things conduced rather to strengthen than to subvert local self-Government throughout tribal domains. Population was thin, hence there was plenty of land for all. The fights and squabbles of rude agricultural tribes never caused much bloodshed. At most the want of a strong central control rather checked increase than diminished numbers. What decimated the

State of Punjab
agriculturists in the
eighteenth century.

population from time to time and wiped out villages—the remnants being dispersed and absorbed by those which had suffered less—were famine, and pestilence which sometimes follows in the wake of famine. In 1783 the

Famines.

Punjab was visited by a famine, which must have killed a quarter of its population and half the cattle in it. Half the deserted village sites in the country are traceable to it. Again, in 1812 and in 1833, the Punjab suffered terribly from famine. There were no roads and few canals in those days, and the cultivated area was small: hence the failure of the spring crop in any tract caused food-grains to rise to famine prices. But when the drought was so prolonged that the cattle died from starvation, the inhabitants either died too or dispersed, and their old village site fell into ruins and knew them no more.

Families had to huddle together for the sake of mutual protection, hence villages were all strong and defensible: For the same reason cultivation could only be carried on in their neighbourhood. Villages were therefore few in number, and much of the best arable land in the country—particularly in the broad valleys of the Punjab river beds—was jungle. The consequence was, that the agricultural tribes of to-day were then largely pastoral, and that the wealth of the country was rather live-stock than corn. As the Sikhs consolidated, first into a military commonwealth, and then into the obedient soldiery of Maharaja Runjeet Singh, the development of tribal government was, except on the frontier, arrested.

What may be called the Sikh revenue system, obtained from early in the present century until a few years before the first Sikh War with ourselves (1846-47). Under that system, as was

Sikh revenue systems described.

incidentally mentioned in the first chapter, the country was divided into governments, each of which was sub-divided into a large number of circles. These latter were administered, either singly or in groups, by revenue farmers or jagirdars, whose tenure of office depended on their influence with those in power at Lahore. Making allowance for individual idiosyncrasies, the general rule was for appraisers at harvest time to roughly estimate the yield per acre, and the approximate acreage under each crop, and take one-half of the yield so obtained as the Government share. This share was in some localities paid in kind and in others in cash. When cash was taken, the assessment was advanced by the village money-lender, or by some local contractor who squared his accounts with the cultivators after harvest. Wherever the community was very powerful or well organised, it contracted through a local chief, or its own headmen, with the Government representative, whether farmer, jagirdar, or governor, and paid whatever was agreed upon from harvest to harvest. In most cases the limit of the demand was the ability to pay on the part of the cultivator, and to coerce on that of the farmer or collector, without raising an insurrection, which would either cause him to forfeit his life or his post.

No rights between those of the collector and the cultivator were recognised except in cases where policy made it expedient to use middlemen—generally influential locals—as sub-collectors. In such cases a remission of from $\frac{1}{4}$ th to $\frac{1}{10}$ th was made to them in order to repay the cost of collection. In the case of rich lands growing superior crops in the immediate vicinity of large villages and towns, fixed cash rates were sometimes taken. Wise administrators whose incumbency was pretty secure—such as the famous Diwan

Sawan Mull of Mooltan—encouraged cultivators and capitalists to sink wells, but the number so excavated was insignificant. Practically, whether corn or cash reached the local treasury, the actual cultivator always paid in kind as much as could be squeezed out of him.

Throughout India the theory that the State is the ultimate landlord, and, as such, entitled, as a first charge, to a half or larger share of the profits of cultivation, has been indisputable for more than 2000 years in every part of the Peninsula, and every Government which has ever ruled over any part of it has invariably acted upon this theory. Taxation in the form of land revenue has fewer objections in the East than any other kind of known impost. What the Sikh system did, was to extend the theory on which the land revenue rests, and enforce the State's right to the whole profits of cultivation. In other words, the State was held to be the sole—not the ultimate—landlord.

With the death of Runjeet Singh, the first and last King of the Sikhs, in 1844, the machinery by which he had maintained his revenue system for upwards of a quarter of a century, was dislocated, and for a few brief years anarchy prevailed throughout the Punjab. In the Musalman tracts, the respite, such as it was, gave the dominant clans and families the opportunity to revive and partially recover rights which had been in abeyance for the previous generation or more.

When, in 1849, the Punjab became an integral part of British India, the first duties of our earliest administrators were to pacify the country and secure the payment of the land revenue. There was no leisure for an inquiry into tenures, nor was the time yet come when such inquiry could have had any

beneficial result. Land was plentiful, cultivators were scarce: "individual rights" was a term hardly yet comprehended: what rights were understood were those of the tribe or village collectively. Thus, for some years after annexation, dominant tribes and families obtained a further respite wherein to consolidate and legalise their levy of proprietary dues of sorts. As the Sikhs, though good soldiers, were also good farmers, they at once settled down, under our strong rule, into peaceful tillers of the soil, and our civil officers obtained leisure to make a land revenue settlement of the country. They found that the Sikhs, besides taking the landlord's share of the produce, had also levied cesses from cultivators,—the whole of the date and mango crops, where such trees grew, a poll-tax on artisans, camels, buffaloes, sheep and goats, and heavy transit and town duties. No tax seems to have been paid by the shop-keeping Bunniah class at all, because they were, except in towns, merely poor dependents of the cultivating classes. I draw particular attention to this fact.

We retained the cattle tax, abolished all other cesses and dues, substituted individual for collective ownership of land, and converted the share of each harvest paid by the cultivators, which he had generally paid in kind, into a fixed cash assessment. As the assessments had to be very rapidly conducted—each English officer having to make a settlement with the headmen of from 1,000 to 3,000 different villages in the course of one cold weather's tour—a great many errors were made. No reliable *data* for assessment existed. The Sikh records, such as were found, only showed the gross demand. Remissions, deductions, and, above all, unrealised balances, were unascertainable. Then most of the early district officers were young, untrained, military men. The assessment imposed was in each case the

Fixed cash assessments imposed.

assumed average collections of the three preceding years, converted into cash at the market rates of the day, less a deduction, for the sake of safety, of from 15 to 20 per cent. In most cases a committee of village elders accepted the demand, and contracted to pay it for a short term of years.

In many cases middlemen—former sub-collectors or local revenue farmers—agreed to pay the assessment, the cultivators refusing to engage. The dearness of coined money and the smallness of the cultivated area, had hitherto kept up prices, and had they continued high, the assessments made immediately after annexation would have been—making a fair allowance for unavoidable inequalities—fairly equitable. Peace and security, however, expanded the cultivated area enormously; and the presence of a large military force in the Punjab, together with the undertaking of great public works, such as the Grand Trunk Road and barracks, doubled the money circulation. Those causes reduced the money-value of agricultural produce from 50 to 100 per cent. The result was ruin for thousands of cultivators, indebtedness for tens of thousands, and the beginnings of a hold on the land for astute and wealthy middlemen. As soon as possible, the assessments were everywhere revised.

What is called summary settlements were made and village boundaries demarcated. The object of such settlements being fiscal, no authoritative investigation into tenures took place. As a rule, the person found in cultivating possession was treated as the proprietor and settled with. The general result of summary settlements effected in 1852 and the following years, was an all-round reduction of assessment

Effects of peace and security: change in revenue system.

Summary land revenue settlements.

of from 10 to 20 per cent. When the enormous extension of the cultivated area is considered, the fact that three or four years after annexation such reductions were found necessary, shows how severe the earliest assessments were, and speaks volumes for the patience of the people.

Shortly afterwards what is called regular settlements were undertaken in many districts. The object of such settlements was partly fiscal, but chiefly the preparation of what is called the record of rights,—*i. e.*, tenures of every sort were investigated, determined, and recorded. The result is a sort of elaborate Domesday Book, which permanently fixes individual rights in land and water.

For the 14 Musalman districts of the Punjab, the first regular settlement of a district was completed nearly a quarter of a century ago, and the last—that of Kohat—only the other day.

Their effect. The slow deliberation with which such work was undertaken in the western districts of the Punjab, greatly assisted dominant tribes and families, and sagacious individuals, in perfecting titles to proprietary dues, which, if investigated immediately after annexation, would have been found to have been either non-existent, of uncertain continuity, or simply State remissions made for revenue purposes. As a regular settlement fixed the Government demand for 20 or 30 years, and, above all, defined individual rights, and so gave each person, with any recorded interest in land, a clear title, the effect of such settlements was everywhere both to largely appreciate the market-value of land and the credit of those whose titles to marketable interests had been established. Without doubt a grave error was made upon annexation, in suddenly substituting for an elastic kind of assessment a fixed cash assessment—to say

nothing of its severity. Although this mistake originated a good deal of the existing peasant indebtedness, no disastrous consequences would have ensued had we not also at the same time converted collective into individual ownership of land, plus the right to alienate it at pleasure. By so doing we made an unconditional gift of a valuable estate to every peasant proprietor in the Punjab, and raised his credit from the former limit of the surplus of an occasional good crop, to the market-value of the proprietary right conferred. It is difficult for us now to realise the revolution effected in the status and relations of peasants and shop-keepers by the innovations introduced in 1849-50. Until then the proprietary unit had been the tribe or community collectively, individual rights in land being restricted to the plot each member actually cultivated. Alienations of a cultivating right, unless approved by the whole body of shareholders, were impossible; his borrowing power was limited to a few rupees, recoverable only at harvest time; his Bunniah was merely his humble servant and accountant; he himself in worldly wisdom was as ignorant as a wild beast. For a hundred generations he had pastured his cattle, sown and reaped his scanty crop, and paid as little of it as he could to the Government of the day, and that little either through his aforesaid servant and accountant, or some intelligent chief or headman. Such terms as "individual rights," "property," "the purchasing power of money," "credit," "attachment and sale," were incomprehensibly meaningless to him. In one day the old order passed away, and gave place to a new one, which imposed upon this unsophisticated Punjabi a responsibility to which he was unequal, in that he who had never

Effect of gift of full proprietary rights in land to individuals.

Ruinous consequences of such a sudden gift.

handled coin in his life before, was required to pay to his Government twice a year a fixed sum of money—crop or no crop. To his surprise and delight he found that his formerly petty borrowing powers were now practically unlimited, his Bunniah being ready to accommodate him to any extent. If, in his newly-discovered freedom, he was reckless and improvident, the blame was not his, but that of his rulers. Were the children in all the Board

Foolishness of the gift illustrated. schools in Great Britain suddenly let loose in London, each with fifty golden sovereigns in his pocket, would it be right to blame them or the donors who had given them their holiday, if, instead of putting their money in the Savings Bank, they spent it foolishly? Again, if Parliament were suddenly to abolish guardians and put all monied wards in the untrammelled possession of their estates, most minors would run through their properties before attaining majority, and the world at large, as well as the pauperised minors, when arrived at years of discretion, would condemn the act of emancipation as one of folly. Yet that is exactly what was done upon the annexation of the Punjab, throughout its Musalman tracts at least.

The gift is an *eldorado* to money-lending class. To the Bunniah class the change to fixed cash assessments, the creation of individual rights in lands, and the introduction of civil courts administering laws and procedure code framed on European models, were as welcome as would be the succession to a great estate of an impecunious Anglo-Indian, or the discovery of a gold mine on his land to an Australian settler. With their inherited business habits, their want of sympathy for Musalmans, their unscrupulous greed for gain, their established position as accountants and factors for the agricultural population, their monopoly of education, of general intelligence, and of

trade—most particularly of money-lending (the taking of interest being unlawful for a Musalman*)—prospects of wealth and position, never before attained in their history, were opened for the Bunniah class.

The ultimate diversion of a large part of the profits of cultivation into their pockets, their elevation to the position of landlords, and the degradation of the peasantry to that of tenants, were secured to them. The process was slow at first owing to the operation of two causes.

Its ultimate effect retarded by two causes.

Titles were everywhere insecure until determined and recorded at a regular settlement, in which the investigations and recording of tenures was made, and that, as we have seen, was not effected in some districts until many years after annexation. Then for many years civil courts were few, and guided by reason and conscience. The introduction of the elaborate substantive law now administered in our civil courts, of a strict code of Civil Procedure, of legal practitioners, and of all those complicated devices of civilised Europe, which benefit the rich and terrorize the poor, was a matter of slow evolution in the Punjab. For many years, too, the peasant's margin of credit was so great that he succeeded in scraping along by renewing his bonds at long intervals, † and by making over to his creditor the surplus produce of the annually extended area under the plough.

That the Musalman peasant is a short-sighted and long-suffering animal, is demonstrated from Improvidence of Musalman peasants. his history during the last twenty years. So long as the paternal acres remain in his possession, and

* A few Musalmans here and there Cis-Indus openly lend money on interest, braving the scorn of their co-religionists. On the frontier, in fact wherever Mahomedanism is dominant, he who hoards money, or is suspected of secretly lending it out on interest, is reviled and despised as a sordid renegade. With Musalmans liberality is the greatest of all virtues ; parsimony the meanest of all vices.

† See page 74, on gradual reduction of period of limitation from twelve years to what it is now.

the pinch of actual poverty is not felt, he is content to rub along from day to day, deliberately oblivious of accumulating debts until Fate's decree removes him to paradise. From the causes already mentioned, though a good deal of indebtedness was incurred within the first decade of our rule, the area of land alienated to non-agriculturists in that period was small. Except in localities in which summary settlements had broken down in consequence of over-assessment, no popular discontent at the insidious transfer of the rights of the people of the soil to nerveless aliens anywhere manifested itself before 1860. It cannot be doubted that the loyalty of the Punjab peasantry during the 1857-58 Mutiny was largely due to the absence, in 1857-58, of good cause for agrarian discontent. In the older Gangetic districts of the N.-W. Provinces, that Mutiny was largely taken advantage of by the agriculturists to wreak their vengeance on the money-lenders and auction-purchasers who had dispossessed them. For the Western Punjab the alienations of land

Compulsory alienations of land to Bunyahs.

to outsiders may be said to have seriously begun between 1860 and 1870. As the regular settlements of the frontier districts

were the last effected in the province, in those districts the change was forced on the notice of Government a few years later than in the older-settled districts Cis-Indus. Between 1860 and 1870, by means of judicial decisions and revision of settlements—both summary and regular—titles had been everywhere, except on the frontier, ascertained and recorded, a system for the collection of annual agricultural statistics had been elaborated, and the value of land had become understood even by the peasantry themselves.

Mistaken views of early Punjab revenue authorities.

Energetic District and Settlement Officers had from time to time drawn the attention of the Punjab Government to the subject of agricultural indebtedness and its con-

sequences, but without result. The standard of comfort of all classes had risen: the people generally were manifestly more prosperous than they had been 10 or 20 years before: agriculturists were better housed and clothed, spent more on betrothals, marriages, and deaths, than ever before: their land revenue assessments were, when viewed absolutely, light, not amounting to more than one-sixth of an average yield: if the inelasticity of a fixed land revenue assessment compelled them to borrow in bad years, still their assessments were, in theory, very light, falling at less than a quarter of an average yield: the surplus of good must recoup the losses of poor or of no harvests: the principle of fixity of demand must not be impugned: elasticity would demoralise the people: a year or two of misfortune would inculcate prudence. As for the alienation of land to money-lenders, the investment of capital in land was a sign of prosperity and of confidence in the stability of the British rule: the village money-lender was a necessary factor in the agricultural economy of India, was coeval with agriculture, and could not be dispensed with. By such paradoxes and truisms the revenue authorities of the day satisfied themselves that the insidious change in the relationship between cultivator and Bunniah, which District Officers sometimes ventured to think dangerous, was a concomitant of progress and prosperity.

CHAPTER VII.

AGRICULTURAL INDEBTEDNESS THROUGHOUT INDIA
AND RELIEF ACTS.

THE "people of India" are the dumb toiling millions of peasants inhabiting the villages, hamlets, and scattered homesteads of the land. The town-bred exotics who are annually forced through in our educational hot-houses, and glibly mouth the phrase, whilst posing as representatives of that people, have less claim to the title than the puny operatives of our manufacturing towns have of being typical specimens of John Bull.

Before further considering the position of the section of the "people of India" who occupy the western half of the Punjab, a general survey of that of their fellow agriculturists elsewhere throughout the Peninsula will be useful.

Modern British India dates from the Sepoy Mutiny of 1857. That revolution changed an estate managed on purely business principles into an Empire governed for the good of its inhabitants. The history of the growth of the Hon'ble East India Company's power in India closely resembles that of Russia in Central Asia. The morality of a transaction was little considered when it clashed with personal interests. In pre-Mutiny days the situation in Northern India was always critical and the treasury generally empty. How to keep what had been acquired and get more on opportunity, were the ever-present problems, the answers to which depended upon a full treasury and a quiet people. In those stirring times there was no leisure for the elaborate

niceties of the administration of to-day. It thus happened that as territory after territory was absorbed, we blindly divested ourselves of the immediate ownership of the soil, and conferred it upon its actual occupants, or, when it suited us, upon local chiefs or useful middlemen, exacting in return a quit-rent in cash, which now amounts to £ 22,000,000 annually, or about one-third of the Imperial revenue of India.

Throughout three-fourths of the Madras Presidency and Bombay and Madras tenures. two-thirds of that of Bombay, the "ryot," as the cultivator is called, has been directly settled with. His tenure is very simple, and only wants elasticity to be ideally perfect. Each parcel of land has a fixed quit revenue imposed on it: the cultivating ryot may alienate his occupancy rights or throw them up when he pleases. Throughout the rest of Madras and Bombay, interposed between the Government and the cultivator are large landlords with whom the settlement has generally been made. In Bengal the much-abused and short-sighted permanent settlement was made about 1790 with large middlemen and landlords. In Oudh the same classes have been settled with.

In the N.-W. Provinces and the Punjab, small peasant proprietors who cultivate their own land in whole or in part, and who are collectively responsible for the payment of the land revenue, form the bulk of the proprietary class. In most cases the assessment, whether by fields or estates, is fixed for 20 or 30 years, and is frequently not revised until some years after the term has expired. Throughout

Protected or occupancy tenants. India where the cultivators are not also the proprietors, Government has, since the Mutiny, been slowly raising the status of a considerable proportion of the former into that of occupancy

tenants at fixed rent-rates, consequently the mass of tenants of old-standing, who have brought waste land into cultivation, have now a major share in the largely divided landed interest known as proprietary right. All such tenants can alienate their rights in their holdings under certain equitable conditions. By creating this vast transferable property, we everywhere raised the credit of the husbandman from a few rupees to the market-value of his holding. We, in short, admitted him at one bound to all the rights of citizenship—*sua si bona norit*. He, however, was a conservative, and preferred old ways to new, and ignorance to enlightenment. Naturally he had no objection to spend money, and as the land revenue he paid half-yearly bore no proportion to the crop he had just reaped, he had in bad years to make free use of his credit.

The village Bunniah had under former Governments been his friend and servant, working in harmony with him, and sharing humbly in his prosperity or adversity. As their interests were now conflicting, the ancient alliance between the two was broken. The ex-servant soon aspired to be master, having acquired all the attributes of a Jew or Greek, plus the right to hold land. Under former Governments, arable land had been practically inalienable except amongst cultivators. The satisfaction of a debt could not be claimed as a right; its payment was merely a moral obligation.

With the advent of British rule—British institutions, Civil Courts, Civil Procedure Codes, Contract, Limitation, Legal Practitioners and other Acts were introduced, and a bond or a debt secured on the mortgage or conditional sale of land became a sacred instrument, to be construed according to its terms. A debtor became liable to

Change in status of the Bunniah class.

Effect of "our system" on the peasantry of India.

his creditor to his last farthing. In the eyes of the law the two were equal. In sober truth, the peasant was in money-matters a crass and hardly-intelligible simpleton; the money-lender, a sharp, unscrupulous business-man, whose sole study was self-interest. With their opposing interests and their widely-different intelligencies, it soon became abundantly evident to those civil officers, whose duties caused them to have much direct intercourse with any of "the people of India," that under the ægis of British "justice," that "people" was being reduced into a state of prædial slavery by a small but ever-increasing class of shop-keepers and money-lenders. It was also clearly foreseen by such officers that in time of political disturbance the new class of proprietors and mortgagees would be, if not positively a source of weakness to us, in any case without influence in the cause of order.

From time to time Local Governments were warned of the popular odium in which agriculturists regarded our system of civil law, and of the evils to which a persistence in an attitude of watchfulness—*alias* indifference—would give rise. But in pre-Mutiny days, as now, Governors, High Court Judges, and Chief Secretaries were composed of middle-aged importations from home, and senior members of the Indian Civil Service who had risen to high positions from scholarly ability rather than from practical knowledge of "the people of India."

To such men proposals involving interference with the freedom of contract or class legislation *—that stumbling

* In many matters the "class" question is the vital point which determines the shaping of a law. The statute book is full of "class legislation." The very fact that by Section 266 of the Civil Procedure Code the houses of agriculturists are exempt from attachment and sale in execution of a decree, whereas those of non-agriculturists are not exempt, is a pertinent example. Again, certain persons are exempted from personal appearance in a civil court, whilst others are not.

block for doctrinaire statesmen—were unpalatable, and though never treated with absolute indifference, were either criticised and shelved till a more convenient season, or disposed of by a *non possumus*, on arguments drawn from first principles.

In the Bombay Presidency the growing indebtedness of agriculturist to Marwari and other foreign traders and usurers, engaged the attention of the Government so far back as 1843. The mode of procedure of those foreigners was described in 1852. The Marwari is to the Deccan peasantry what the Bunniah is to the Punjabi cultivator. The procedure followed by the two is identical. What was written in 1852 of the Marwari, might be written to-day of the Bunniah in Punjab villages seldom visited by British officers. The following is the account * :—

Similarity between *modus operandi* of Marwari money-lenders in the Deccan and Bunniahs in the Punjab.

Generally when a Marwari first comes to the district, he enters into the service of one of his relations or country-men, and when he has saved a little money, he sets up a small shop in some village, where he thinks he can improve his circumstances. At first he is very meek and forbearing in his transactions with the ryots, and sometimes induces the patels or other influential parties to lend him money to enable him to enlarge his business, and provide for the wants of the villagers. By degrees he extends his operations, until he has got the ryots completely into his hands, and by dint of usury and of any oppressive dealings in which he may be able to obtain aid from the civil court, he collects, say, from Rs. 3,000 to Rs. 4,000, and returns to his country for the purpose of marrying. On his return he plays the same game, other members of his family join him, and with his assistance set up separate shops.

In a statesman-like report written in 1852 by Captain, afterwards Sir, G. Wingate, Revenue Survey Commissioner, the whole subject was succinctly discussed. As the state

* Superintendent Revenue Survey's Report, para. 22, No. CXXIII, Bombay Selection.

of relationship between creditor and debtor and the causes conducing to enslave the latter to the former, are still—with some ameliorations and exceptions to be noticed hereafter—universally true in India to this day, I shall quote extensively from Captain Wingate's remarkable report.

The state of Bombay cultivators in 1852.

He begins by remarking that it was unnecessary for him—

to bring forward proof of the general and deplorable indebtedness of our agricultural population. The fact is universally admitted. It is familiar to the experience of all public officers, whether Revenue or Judicial. The grinding oppression of the ryot by the village Bunniah or money-lender has become proverbial, and forms a subject of anxious consideration to all who take an interest in the welfare of the agricultural classes.

After referring to a class of agrarian crime growing annually more familiar to district officers in the Punjab—that of peasant debtors, when goaded into desperation, murdering their creditors—he proceeds :—

It remains to be shown how it is that the creditor in our
Our laws the cause of peasant indebtedness. Provinces has acquired a degree of power over his debtor, which is wholly unknown in Native States. This power, it is clear to me, has been conferred by our laws, which enable the creditor to obtain a decree against a debtor, for whatever may be written in his bond, and an enforcement of that decree by the attachment and sale of whatever property, moveable or immoveable, his debtor may possess or acquire. Under our predecessors—the Mah-rattas—a creditor, it may almost be said, had no legal means of enforcing payment from his debtor at all. There was, as stated by Mr. Frere in the 5th paragraph of his report on the administration of civil justice in Satara, no court of civil justice to which a man who had suffered some wrong could resort as a matter of *course* and of *right*. Creditors and debtors were, in fact, left to settle their claims, as best they might, with little or no assistance, in most instances, from public authorities. Even in Satara, where the system of civil justice was considerably influenced by our ideas, it is clear from Messrs. Frere and Coxan's reports that a creditor had very limited means for enforcing his claims. It was no easy matter to obtain a hearing for his case at all ; but

if he succeeded in securing a decree in his favour, and, what was more difficult still, in obtaining an order for the attachment of the person or property of the debtor, a single attachment was, in ordinary cases, held to be a sufficient satisfaction.

It may then be affirmed that, for all practical purposes, the relations between debtor and creditor were determined under the Mahrattas without reference to any legal means of enforcing payment of debts. The creditor trusted chiefly to the honesty and good faith of his debtor, and it followed, as a matter of necessity, that loans were sparingly granted unless upon the security of property, such as jewels left in pawn, or a mortgage on land or houses, or standing crops. In agricultural villages, the relations between the money-lenders and the cultivators were those of mutual interest and confidence. The Bunniah advanced the cultivator as much as he felt satisfied that he could and would pay, but no more, and at no higher rate of interest than was sanctioned by usage and public opinion. If the Bunniah insisted on a higher rate than was deemed equitable, it is not probable that his debtors would have paid up their instalments with the usual regularity, and he had no means of compulsion at command. Under these arrangements, the village money-lender and the ryot worked in harmony, and both alike shared prosperity and adversity together.

Under our system this happy and mutually advantageous state of affairs has been completely overturned. The prosperity of the ryot is no longer necessary to the prosperity of the village money-lender. The latter has no longer occasion to trust to the good faith or honesty of the former. Mutual confidence and good-will have been succeeded by mutual distrust and dislike. The money-lender has the ever-ready expedient of a suit at law to obtain complete command over the person and property of his debtor. It becomes the interest of the former to reduce the latter to a state of hopeless indebtedness in order that he may be able to appropriate the whole fruits of his industry beyond what is indispensable to a mere existence. This he is enabled without difficulty to do. So long as a ryot is not much involved, the money-lender is ready to afford him the means of indulging in any extravagance and without troubling him at all about future re-payment. The debt may lie over, and he may choose his own time for re-payment. The simple and thoughtless ryot is easily inveigled into the snare, and only becomes aware of his folly when the toils are fairly around him and escape is impossible. From that day forward he becomes the bondsman of his creditor. The latter takes care that he shall seldom do more than reduce the interest of his debt. Do what he will, the poor ryot can never get rid of the principal. He toils that another may rest, and sows that another may reap. Hope deserts, and despair possesses

him. The virtues of a freeman are supplanted by the vices of a slave. He feels himself to be the victim of injustice, and tries to revenge himself by cheating his oppressors. He cannot get into a worse position than he already occupies, and becomes reckless. His great endeavour is to dispoil his enemies—the money-lenders—by borrowing continually. When he has got all that he can from one, it is a triumph to him if, by any amount of lies and false promises, he can get something more from another. When he has two creditors there is a chance of their fighting with each other, and that during the fray he may be able to snatch a portion of the spoil from both.

This miserable struggle between debtor and creditor is thoroughly debasing to both. The creditor is made by it a grasping hard-hearted oppressor. The debtor, a crouching, false-hearted slave. It is disheartening to contemplate, and yet it would be weakness to conceal the fact that this antagonism of classes and degradation of the people, which is fast spreading over the land, is the work of our laws and our rule. The corruption and impoverishment of the mass of the people for the enriching of a few has already made lamentable advance in some districts, and is in progress in all, and the evil is clearly traceable, in my opinion, to the enormous power which the law places in the hands of the creditor.

The facilities which the law affords for the realization of debt have expanded credit to a most hurtful extent. In addition to the ordinary village bankers, a set of low usurers is fast springing up, by whom small sums are lent for short periods at enormous rates of interest to the very lowest of the population, who have not credit enough to obtain advances from the more respectable of the village bankers. All grades of the people are thus falling under the curse of debt, and should the present course of affairs continue, it must arrive that the greater part of the realised property of the community will be transferred to a small monied class, which will become disproportionately wealthy by the impoverishment of the rest of the people. No greater misfortune could befall any nation than this, by which the many are made miserable in order that the few may be pampered. And yet this is the inevitable tendency of the existing relations between debtor and creditor in our Presidency.

There is, in my humble opinion, but one remedy, and that is to withdraw many of the facilities now afforded to the creditor for the realization of his debts, whether just or unjust. To place extortion beyond the pale of law, and to prevent the latter being used by a remorseless creditor as an instrument of torture for wringing out of his victims sums of money which the latter had never borrowed, but which their necessities or thoughtlessness had induced them to acknowledge as debts in a bond. What is

wanted is to restrict credit; to make the money-lender more chary of his advances; to make the people look to their own industry rather than to loans for the purpose of carrying out their projects or gratifying their inclinations; to afford encouragement to forethought and thrift, and to throw discouragement in the way of thoughtlessness and improvidence.

If for the words "Marwari" and "ryot," "Bunniah" and "peasant" be substituted, Captain Wingate might have been writing of facts of the Punjab in 1872 instead of the Deccan in 1852.

When inquiries were completed the Bombay Government, on September 5th, 1855, after referring to the "almost universal bondage into which the agricultural classes have fallen from their indebtedness to these foreigners," calmly shelved the question by concluding :—

Bombay Government shelves the question of reforms *sine die*.

This is a subject which has been so often brought to the notice of Government, and received so large a share of its anxious consideration on former occasions, that it is unnecessary to discuss it in this place. The proposed introduction of Small Cause Courts will, it is hoped, place some check upon the usurious practice of the Marwaris, and the gradual spread of education will eventually render the ryots less facile victims to the unfair practices of these usurers (over-reaching petty capitalists) than they have hitherto been.

But the Executive subordinates of the Government who lived among the people would not permit the matter to be dropped so easily. In 1858 the Revenue Commissioner again returned to the charge. Quoting from the Collector of Ahmednagar, a Mr. Tytler, well known as an earnest and competent officer, he wrote* :—

Local officers refuse to let it be dropped.

The ryots cannot write or read, and provided they have their urgent wants supplied, be it for a marriage or anything else, they care not what document they sign. The Marwaris take advantage of this state of things, and they care not what document they forge, or how extravagant the terms entered in

* Opinion of the Collector of Ahmednagar, para. 1, No. 1636, dated 23rd June, 1858, from Revenue Commissioner, S. D., to Chief Secretary to Government.

the bond. Yet documents thus framed pass as mutual agreements between the parties. The aid given by law to money-lenders and borrowers is all on the side of the former; the latter have no protection whatever. They should have all; the former require none, being well able to take care of themselves. I believe that nine-tenths of the disturbances in India are attributable to this source. * * *

The aid given by our courts is all on the side of the *Marwari*, who alone knows how to turn that aid to his own advantage. The position of the litigants is not therefore simply of debtor and creditor; it is the fraudulent *Marwari*, backed by civil courts *versus* the helpless ryot signing any bond without even a true knowledge of its contents, and powerless to oppose any decree that may be passed.

This matter keeps up a constant irritating sore throughout the society, and the whole *onus* is thrown by the people on the civil courts, whereas it is the law which is at fault, in assuming debtor and creditor in this country to be equal, while they are rather in the position of master and slave.

The question is one of vital importance both to Government and the people. Even the passive society of the East cannot bear so great a burden without making from time to time convulsive efforts to shake it off. These efforts must increase in frequency and strength, unless the Legislature seriously takes up the evil and applies the knife to it.

In illustration of the present working of our usury laws, I shall give one instance which is on record. A man borrowed four maunds of *jowari*, value about Rs. 6. Two or three bonds followed, and in 16 months the borrower was sued for Rs. 72, which the lender got with costs. The adjudicating authorities considered the thing iniquitous, but there was a bond, and this covers all such iniquity. Thousands of parallel cases could be collected. Every division and almost every village teems with them.

This subject has been brought forward repeatedly during the last thirty years, and has always been laid aside in the vain hope that the evil would cure itself, and that the improved condition of the people resulting from the low survey rates would lessen the evil. This hope has not been realized. On the contrary, the evil is greatly on the increase, eating into and irritating the entire mass.

Again were papers on the subject laid before the Bombay Government, when the following Resolution was recorded:—

Action again postponed.

His Lordship in Council entertains no doubt of the fact that the labouring classes of the native community suffer

enormous injustice from the want of protection by law from the extortionate practice of money-lenders. He believes that our civil courts have become hateful to the masses of our Indian subjects from being made the instruments of the almost incredible rapacity of usurious capitalists. Nothing can be more calculated to give rise to widespread discontent and disaffection to the British Government than the practical working of the present law. The attention of the Legislative Council on the subject should be requested, and a copy of the Revenue Commissioner's letter forwarded for their consideration.

Naturally the Legislative Council, being scholarly men and only accustomed to study the ryots from the windows of palatial offices in Bombay and Poona, let the matter drop. For the next 10 years the subject was presumably engaging the "anxious consideration of Government" as it had during

the preceding twenty. The policy of drift-and-do-nothing was continued until, in 1870, the Revenue Commissioner, Northern Division, drew the attention of the sleeping Government "to a very threatening state of matters in the north and west of the Province * * * * in consequence of the relations brought about by the action of the courts of civil justice between the money-lending classes and superior holders cultivating by means of hired labour, and Bheels and members of other rude tribes who are indebted to the former under various forms of obligation."

In the papers submitted, Government was significantly reminded—

"that the Sonthal Rebellion arose out of a state of things precisely similar to that now existing in the west of Khandesh, and that though no indications of an approaching outbreak may have presented themselves here, neither did the Sonthals give a word of warning before they burst over the plains of Beerbhoom with an army 30,000 strong, to avenge themselves on the usurers who had robbed and enslaved them under the tacit sanction of our civil law."

That set an inquiry on foot once more; but though none denied the disease, few agreed upon the remedy.

The field of investigation was extended to Sind, the N.-W. Provinces, and the Punjab, in all of which the same deplorable state of things was found to exist. In the Punjab the acute stage had not yet been reached. A healthy peasantry requires more than a decade of mistaken treatment to show signs of serious disease. In Sind—a country of large landlords—it was found that it was

Inquiries into the condition of the peasantry in Upper India.

Condition of Sind landlords.

“almost equally unhappily circumstanced with the Presidency Proper. A series of unfavourable seasons and calamities has forced the *zemindars* of many districts into the hands of money-lenders, who exact a very high rate of interest, and with the aid of the courts deprive them of their lands. Extravagance no doubt has assisted the fall of these Mahomedan gentry: still Government cannot but look with great solicitude on the ruin of the heads of society in a frontier country, conquered but 31 years ago, who have hitherto been conspicuous for their loyalty and good behaviour. The great Sind jagirdars are also, with but a few exceptions, deeply encumbered with debt.”

In the N.-W. Provinces inquiries had been progressing since 1858. The Mutiny had given dispossessed proprietors an opportunity of destroying the auction-purchasers of their estates and holdings.

Inquiries in the N.-W. Provinces.

Regarding those new men and the policy which permitted them to supplant old proprietors, Sir William Muir’s opinion. Sir W. Muir, in 1859, recorded:—

I need not say that my opinion of the injury done by these sales has received grave confirmation from the events of the intervening period. The passing of landed estates into the hands of mere speculators without any local influence or connexion with the soil, was always regarded as a serious disadvantage. It ousted from their ancestral lands those who by their natural position could best manage them, and be made instrumental in aiding the administration, and it substituted a set of men who were often unable, even in times of peace, to

maintain themselves in secure possession, and for all administrative purposes, were far less responsible and less useful proprietors. In addition to this we have now had universal proof that the moment the authority of Government is suspended, the old proprietors will re-assert their foregone rights and oust the upstart intruders.

This has been equally the case, I believe, where the sale has been a direct transaction by consent of the former proprietors. It is not therefore an indubitable proof that such sales are regarded by the natives as unjust. It is simply a fresh illustration of the tenacity with which mankind all the world over cling to their ancestral acres, and, when the check of authority is removed, a proof of the temptation that exists to resume the alienated birthright. The new owners brought in by our system were generally, as I have said, men without local power or influence; they could often hold their own position only with difficulty in times of peace; and when all restraint was gone, they were naturally the first objects of lawless outrage.

But whether regarded by the natives to be right or to be wrong, the practical result of these sales has been equally disastrous. They contributed seriously to the embarrassment of Government, and to the confusion and disorder of the days of anarchy. They proved an eminent source of weakness. This is a fresh argument against the present system, super-added to the evils that were already felt, to call for the adoption of all possible means for checking the frequency of sales and permanent transfers.

Sir John Strachey's
opinion.

Sir John Strachey in the same
year wrote :—

Before our Government was established, there was practically no such thing in the possession of individuals as proprietary rights in land, according to our ideas of what property is.

This is probably true in every primitive state of society, and it was especially the case in India. Such rights of property as did not appertain to the Sovereign, belonged, as a general rule, rather to a community than to an individual.

It is clear that this state of things must pass away with progress in civilisation, and it is no reproach to our system that it has recognised this fact. But the principle has been carried out too rapidly and too rigidly to its logical conclusions.

I have stated my opinion that the origin of the debts which lead to these frequent transfers of property is, in the great majority of cases, the pressure of our revenue system. Although the main principles of that system are sound, it has, I think, been administered in a very harsh and unbending manner. Collectors and their subordinates have far too much become mere machines for grinding revenue out of the people. But no amelioration or relaxation of our revenue administration will give any real relief so long as the landholders find it impossible to obtain advances of money on fair and reasonable terms.

No one who has not had the matter brought practically and directly to his notice, can have the least conception of the knavery and rapacity of the money-lenders to whom the landholders of these Provinces are obliged to have recourse. Whatever ought to be the case in theory, it is very certain that questions of abundance or scarcity of money, of greater or less demand for loans, of good or bad security of competition, and the like, have in practice comparatively little to do with the settlement of the terms on which agriculturists in this country ordinarily obtain advances of money. The conditions depend far more upon the degree of simplicity in the borrower and of rapacity in the lender than on anything else.

Our civil courts have unhappily been the ready instruments for these dishonest operations, and our system of judicial procedure, instead of checking, has stimulated and exaggerated them.

No reform of our courts will alone meet this great evil, and I believe it to be of the highest importance that the Government should not continue to shut its eyes to the ruin in which this widespread system of fraud, or of something little better, is involving the proprietors of the land. They are incapable of protecting themselves, and the Government must interfere in their behalf, or bear, in the opinion of the people, all the discredit of their ruin. There is nothing in the simple alienation of landed property which is in itself distasteful to the people of this country. I believe that in the great majority of cases, in which the old proprietors during the late disturbances resumed possession of their estates, they were enabled to do so, not because the people considered that they held an indefeasible right to the soil, but because the transfer of the land to a stranger was only the final step in a long course of dishonest proceedings by which the former proprietor had been undeservedly brought to ruin.

In the Punjab the question of agricultural indebtedness was, for the first time, discussed in 1870. It would then have been
Official views in the Punjab.

treason for any member of the administration of the model Province to doubt the general prosperity of the agricultural classes, or the perfection of the institutions with whose inception and development the senior civil officers serving in the Commission had identified themselves. The majority of the superior appointments in the Province were then, and still are, held by what are euphemistically termed "military officers,"—*i.e.*, men who, after serving a year or two with their regiments, had interest enough to be appointed Assistant Commissioners in the Punjab. A spirit of discipline and obedience to orders pervaded all ranks. When officers' opinions were called for, they were given without that impressiveness of earnest conviction which characterised those of Executive officers in the Bombay Presidency. The subject was not treated as immediately grave and urgent, but rather as one which would probably become so in the distant future. The Financial Commissioner of the day asserted bravely that he believed "the people now to have emerged into rigorous manhood," by which hyperbole he probably meant that he thought they were quite capable of taking care of themselves. The

Sir Donald Mac-
Leod's opinion.

Lieutenant-Governor (the late Sir Donald MacLeod), finding "most of the Judges of the Chief Court, the Financial Commissioner, and the High Court of the N.-W. Provinces, opposed to the prohibition of sales of land by law," felt that legislation in that sense was improbable, but recorded his protest against a continuance of the drift policy in the following words :—

It is, in His Honor's opinion, beyond a doubt that under no native rule has the forced sale of hereditary land for debts been ever recognised, and it is equally certain, in his opinion, that the principle of selling such lands in execution of decrees is, at the present time, entirely abhorrent to the feelings and opinions of the majority of the people of the Punjab. That

it is equally distasteful to the people of the North-Western Provinces, was sufficiently testified, in 1857, by the scenes witnessed on the banks of the Eastern Jumna Canal by English refugees from Delhi—villages in flames in all directions, and their auction-purchasers ejected and dispersed, while their women flung themselves into wells to escape dishonour.

So far had those responsible for the solution of the most serious problem created by a responsible Government in the East, progressed in their leisurely inquiry in 1870-74, when, towards the close of the latter year, some Deccan villagers—grown desperate by 30 years of resultless inquiry, banded themselves together as a Mahratta Land League and—boycotted their creditors. The contagion spread rapidly. In the following May the cultivators in a large village near Poona rose and gutted the shops of their oppressors. Similar riots and disturbances took place in a score of other villages, the object in every case being the destruction of bonds and decrees in the hands of Marwari and Guzrati money-lenders. The immediately exciting cause—for the risings were believed to be unconnected—was in each case the circulation of a story that usurious bonds had, with the approval of Government, been extorted from a debtor. That the most docile and law-abiding agriculturists in India should almost within site of Poona—the summer capital of the Bombay Government—riotously rebel against the justice of that Government's laws—ungratefully forgetful that for upwards of 30 years their grievances had been subjected to "anxious consideration"—took that Government by surprise. Urged on by apprehension of a general Mahratta uprising, a Commission of Inquiry was immediately appointed, and the excited peasantry pacified by promises of redress of grievances.

Agrarian disturbances in the Deccan.

The rising takes Government by surprise after 30 years of "anxious consideration."

The Commission did its work leisurely but thoroughly.

Deccan Ryots Act, 1879, passed. Finally, after great opposition, the Deccan Ryots Act, 1879,* was passed. So

sweeping were the changes made by that measure, that it may be called revolutionary. Besides cheapening and simplifying litigation between peasant and creditor, and compelling the registration of all instruments between

Its revolutionary provisions. them, it required a civil court in debt cases, after separating the true principal from the interest, to decree only reasonable interest and fix instalments for the payment: the period of limitation for debts secured by registration was extended from six to twelve years, and debts on account and on unregistered bond, from three to six years: debts under Rs. 50 could be extinguished at once, the court exacting payment of as much as the debtor was able to pay: agriculturists were exempted from liability to arrest or imprisonment in execution of a decree for money; and the attachment and sale of their land, unless specifically mortgaged, was forbidden: in cases of usufructuary mortgage on registered deeds, agriculturists were empowered to redeem on payment by instalments of the ascertained principal with moderate interest superadded: creditors were required, under penalty of fine, to grant written receipts for payments, to render annual statements of account, and even to provide agriculturists with pass-books.

This drastic measure has been in force five years over an area 21,523 square miles with a population of 32,96,686. It has worked well, restored the cultivator to life and hope, and up to the end of 1884, had enabled more than ten thousand mortgagors to redeem their lost fields.

* That is the familiar title, but correctly it is "The Dekkhan Agriculturists' Relief Act, 1879." It was amended in 1881 and again in 1882.

As for the money-lenders, some have gone back to their own country, some have been absorbed into the general population, and taken to honorable trading, and even to agriculture as the sole occupation, and many of the best class still engage in banking in a legitimate way, only lending to solvent cultivators on good security and on reasonable terms, and have given up land-grabbing as a bad speculation.

In the report for 1884 of the Special Judge who superintends the working of the Act, the fact that creditors as well as debtors freely litigate in the courts specially constituted by the Act, is prominently noticed as confuting the old charge levelled against the Act, that it would scare money-lenders out of the courts. The results of five years' working of the Act are summed up in the following words :—

Solvent ryots can borrow as readily as before within the limit of their true means; but agriculturists of doubtful solvency find it more difficult than of yore to obtain accommodations. Money-lenders are everywhere more chary of lending and more cautious in their proceedings. They are learning to contract their dealings within the limits that prudence dictates. Debts of old standing are being rapidly compromised by means of conciliatory agreements; decrees of the courts and private adjustments, and the work of liquidation, is gradually and steadily progressing; while comparatively few new liabilities are being contracted; the result being a vast diminution in the aggregate of the ryots' indebtedness. Meantime the ryots are becoming more prosperous and more contented. They continue to regard the Act as the great charter of their rights and liberties. Agrarian crime is almost unknown. The season was, on the whole, a fairly prosperous one. No land was thrown up from inability to pay the assessment or other causes. On the contrary, the area under cultivation considerably increased during the year, specially in some talukas of the Sholapur and Ahmednagar districts. Agricultural stock has likewise increased. I have not heard of any difficulty having been experienced in the realization of the assessment. Nearly all the Subordinate Judges report that the ryots

are much more thrifty, prudent, and self-helpful. They no longer find it necessary, at every turn, to have resort to the money-lender for loans to buy seed or to pay assessment. They are learning themselves to dispose of their surplus produce to the best advantage, and they take timely measures to provide for the demands that are made upon them. They are also learning to combine for mutual aid with a view of dispensing, as far as may be, with that of the saukars.

The general inquiry instituted in 1870 did not alone benefit the Deccan peasantry. In 1876 an Act called "The Sindh Encumbered Estates Act" was passed for the relief of the indebted landlords of that country.

As this volume specially concerns the peasant proprietors of the western half of the Punjab, and will contain no proposals for the relief of the few large landlords in those parts, it is unnecessary for me to notice the provisions of the Act, which gave that class in Sindh an opportunity of clearing their estates from debt. For similar reasons the analogous case of the Jhansi landlords, who were relieved by "The Jhansi Encumbered Estates Act, 1882," requires no comment.

I may, however, notice that all such Relief Acts agree in withdrawing suits between money-lenders and agriculturists from the jurisdiction of the ordinary civil courts, in compelling creditors to be satisfied with reasonable interest, in enabling mortgagees to redeem on easy terms, and in substituting a system of cheap and simple equity, suitable to the character of the agriculturists concerned, for the expensive and complicated technical justice administered by the ordinary civil courts of the land.

CHAPTER VIII.

PRESENT CONDITION OF THE MUSALMAN AGRICULTURISTS OF THE WESTERN PUNJAB.

THE Punjab was annexed in 1849. The Mahomedan tribes occupying its western half were then collectively, each within their own domain, owners and cultivators of the soil. No sanction existing to enable a money-lender to hold land, the limit of an individual cultivator's credit was his willingness to surrender the surplus of a good crop to his creditor. The revenue system of the Sikh Government was to take in kind as much of each crop as it could safely obtain without causing insurrection or discouraging cultivation. Thus the opportunity presented, in 1849, for the best possible revenue and land laws into a newly-conquered country, was unique. The early administrators of the Punjab had practically a *tabula rasa* to work upon.

Did they, then, with the experience of Bombay, Bengal, and the North-Western Provinces before their eyes, do the best possible for the people of the new Province? We have already seen that they suddenly substituted fixed cash assessments for fluctuating kind payments, and by presenting each individual with the fee-simple of his holding, raised his credit from a few rupees to the market-value of that holding. With a fairly constant yield and prudence on the part of the cultivator, both changes, had they been introduced gradually, might have been productive of excellent results.

Unfortunately, throughout most of the Punjab south of the Himalayan submontane zone, a crop of any sort is never certain—the heavens themselves forbid it. Unfortunately, too, the peasantry are in worldly intelligence as stupid as their own plough-oxen. Thus both measures were fatal gifts ; and when subsequently supplemented by a complicated system of civil law and procedure, which presupposes that all men are equally endowed with legal minds, the consequence must be that “the finest peasantry in India” will shortly be reduced into the position of serfs to their creditors. A glance at their present economic condition is necessary, because the highest administrators, from official optimism and their luxurious remoteness from rural facts, still believe in the general prosperity of the Punjab agriculturists.

The inquiries of 1870 demonstrated that an uneasy feeling existed in the minds of many experienced Punjab officers that the indebtedness of the agricultural classes was on the increase. But the absence of reliable statistics as to the transfer of rights in land to non-agriculturists, want of leisure and fear of a snubbing from the Provincial Despots—the Lieutenant-Governor and the Financial Commissioner—sealed most mouths ; still the impression was general amongst those District and Settlement Officers who moved about freely amongst the people.

Until the end of 1857 the period of limitation for suits generally had been 12 years. It was then reduced to six years for claims on bonds and accounts. In November 1859, it was further reduced to three years—what it is now—except in the case of suits based on registered bonds, for which six years remained the limit. Each successive

Indebtedness of Punjab peasantry known in 1870.

Successive reductions in limitation period.

diminution of the period brought about a flood of litigation.

Increase in litigation consequent thereon.

In the Punjab Administration Report for 1859-60, the enormous increase in the number of civil suits in 1859 is flippantly referred to as "this grand *battue* of litigation." As the new law forced creditors into the courts every third year, whenever they failed to induce their debtors to renew their bonds with interest and compound interest super-added, the civil courts were soon clogged with arrears, which the institution of Small Cause Courts in large centres could do little to keep down.

In 1866 a further and, perhaps, more important change in the judicial history of the Punjab took place. In that year a Chief Court was established at Lahore in supersession of a Judicial Commissioner: Act VIII of 1859—the Civil Procedure Code of the Regulation Provinces—was extended to the Punjab, and pleaders were admitted to practise in the courts.

By those means the old rule under which "equity and good conscience" excused all irregularities of procedure, was abrogated, and a reign of technical law and of costly and slow litigation inaugurated. In 1866 the number of suits instituted in the Province rose to the hitherto unprecedented figure of 1,65,520, or one suit to every ninety souls or eighteen heads of families. This proportion was about three times that in Bengal and the Central Provinces, four times that in Oudh, and nearly five times that in the North-Western Provinces.

By 1870 the number of institutions had increased to 2,05,606, of which 71 per cent. were for "money due," being 19 per cent. more than in the previous year. In 1871 the long-suffering agriculturist was further burdened by the

Annual increase in the number of suits instituted.

Their consequences.

levy of an additional "local rates" cess of 6 per cent. on the land revenue he paid.

The number of suits disposed of in that year rose to 2,18,390, of which 1,66,679 were for "money due." The number has since continued to rise year by year, and now stands at the enormous figure of 2,71,375, or 52,985 more than in 1871.*

In the Administration Report for the financial year 1872-73, the Lieutenant-Governor com-
Optimism of the Punjab Government. placently referred to the peasant proprietors of his Province as "thriving and industrious cultivators of the soil," and was "not disposed to regard

Comparative statement showing increase in litigation since 1866.

* The following statement exhibits the increase in civil litigation since 1886 :—

Year.	Number of civil courts sitting.	NUMBER OF SUITS DISPOSED OF			+ or - on figures of preceding year.	Remarks.
		For money due.	Others.	Total.		
1866	392	96,222	70,336	1,66,558	...	
1867	409	90,697	54,980	1,45,677	- 20,881	
1868	405	1,05,506	46,321	1,51,827	+ 6,150	
1869	434	1,21,597	48,318	1,69,715	+ 18,088	
1870	433	1,44,958	58,856	2,03,714	+ 33,799	
1871	442	1,66,679	51,711	2,18,390	+ 14,676	
1872	505	1,68,209	50,134	2,18,343	- 47	
1873	497	1,69,937	53,456	2,23,393	+ 5,050	
1874	501	1,77,279	57,561	2,34,840	+ 11,447	
1875	595	1,73,224	62,123	2,35,347	+ 507	
1876	596	1,87,895	59,341	2,47,236	+ 11,889	
1877	490	1,83,421	60,561	2,43,082	- 3,254	
1878	(?)	1,91,635	59,221	2,50,856	+ 6,874	
1879	469	2,08,862	44,225	2,53,087	+ 2,231	
1880	450	2,13,987	49,890	2,63,877	+ 10,790	
1881	438	2,12,967	51,324	2,64,291	+ 414	
1882	444	2,09,492	60,281	2,69,773	+ 5,482	
1883	440	2,13,895	58,706	2,72,601	+ 2,828	
1884	(?)	2,13,297	58,078	2,71,375	- 1,226	The detail of disposals of suits for money due cannot be obtained from the provincial reports of these years, so the number of institutions has been given instead.

this comparatively free resort to the courts in petty cases as an unfavourable sign."

One ominous sign of the demoralization caused by the changes effected in 1866, was early noticed by many District Officers—litigants ceasing to trust each other, no longer resorted to arbitration for the settlement of their civil disputes.*

In 1873-74 the consensus of opinion amongst District Officers, on the baneful effect of the system established in 1866, was so strong that the Lieutenant-Governor was constrained to take notice of it. He remarked† that most of the officers who thought special measures of relief were necessary to rescue the peasantry from their alleged indebtedness, presided as Judges in courts sitting in rural tracts, and therefore, owing to their limited means of observation, "took a gloomy view of the financial position of the peasantry." He instanced several amendments in the law—mostly of an enabling character only—which empowered courts to refuse to enforce contracts when "undue influence" had been used, and impeded the execution of a decree directed against ancestral and jointly-held property in land. Further, after illustrating his argument by some comparative statistics, he came to the conclusion that "the state of the peasantry is in general eminently prosperous." Five years later this opinion was emphatically endorsed by Sir Richard Temple. In his evidence before the Famine Commission in 1879, he stated

* Previously a court had power to accept, refuse, or modify an award by arbitrators. The new law deprived the courts of that power, and compelled them to "give judgment according to the award." The change in the law, as much as the loss of confidence of natives in each other, has operated to make reference to arbitration as a mode of settlement of civil disputes of rare occurrence.

† Punjab Administration Report, 1873-74, page 37.

that "throughout the Punjab the condition of the peasant proprietors" was "eminently creditable to British rule."

Returning to the views of the Lieutenant-Governor of the Punjab in 1873-74, notwithstanding the official satisfaction with which he received the rising flood of petty litigation, in which agriculturists were chiefly the defendants and Bunniah the plaintiffs, he frankly admitted that if pessimists could make out their case he would be "prepared to sacrifice, if necessary, a large amount of theory to secure the contentment of the people." Meanwhile, the number of claims on "money due" went on increasing.

In 1874-75, a measure of relief was afforded to the over-worked civil officers of the Province by the creation of two new kinds of purely civil courts, which were called Munsiffs and Judicial Assistants. The change facilitated the disposal of suits, brought courts nearer to the homes of the people, ensured greater attention to the technical provisions of the law than formerly, and gave Executive officers—Tahsildars and District Officers*—more time for the exercise of their proper functions. The change was hailed by money-lenders and village shop-keepers as a further concession in their interests, but was not appreciated by the people at large, amongst whom the feeling of despair, that their interests were being sacrificed to those of Bunniahs, found expression in many terse of scornful sayings, the shortest, yet most comprehensive, of which is perhaps *pothi, gawah, digri*,—a bond, a witness, a decree,—as descriptive of the three stages in a civil action and its inevitable result.

* A District Officer or Deputy Commissioner in the Punjab is equivalent to the Collector of the N.-W. Provinces, and a Tahsildar to the Deputy

In his review of the civil administration of his Province in 1882-83, the Lieutenant-Governor remarked that "the number of pleaders is annually increasing, and few cases reach the higher appellate court without the entertainment of advocates, however small the value of the subject-matter." He then went on to observe "whether, in the present state of the Province, it is an unmixed benefit to the people to be able to avail themselves so freely of professional assistance in the prosecution of their claims, may be matter for consideration." There is a ring of helpless regret in the rather impotent conclusion to His Honor's observation. Every officer in the Province knows that "the people,"—*i. e.*, the peasantry, hate the interference of pleaders in their cases, and that in suits between Bunniah-creditor and peasant-debtor, and others of a perfectly simple character, such media obscure justice and ruinously enhance the costs of litigation.

This lengthy digression is justified if it proves that, after faintly echoing the note of alarm, which, in 1873-74, penetrated the sanctuary of the Local Government, the attitude of that Government, with respect to signs and omens of the increasing embarrassment of the people committed to its charge, has since been one of persistent optimism.

The position then is, that the Punjab Government holds that the agricultural classes throughout the Province are in a highly prosperous condition, which, if true, is, as Sir R. Temple says, "eminently creditable to British rule."

As civil officers, whose duties for many years past have made them each—for the districts in which he has served—familiarily acquainted with "the people of the

Increasing number of pleaders regarded as a doubtful good by Government.

Digression justified.

Official opinion of Government on the condition of agriculturists.

Differs from experience of its local officers.

Punjab," have reason to think otherwise, I shall, as briefly as I can, describe what is the true condition of that people.

Adhering to my plan of confining my case to the Musalman half of the Province, I shall only write of the 14 districts west of the Jhelum meridian. I may, however, observe that in many tracts east of Jhelum, particularly throughout the south and south-east of the Province, the peasantry are nearly, if not quite as much, involved as they are south of the Salt Range in the western half of the Punjab.

Condition of
Musalman agricultur-
ists above examined.

Opinion of the Fa-
mine Commission in
1880, contrary to that
of the Punjab Gov-
ernment.

The conclusion to which the
Famine Commission came in 1880*
was, in their own words—

We learn from evidence collected from all parts of India that about one-third of the land-holding classes are deeply and inextricably in debt, and that at least an equal proportion are in debt, though not beyond the power of recovering themselves. It is commonly observed that land-holders are more indebted than tenants with occupancy-rights, and tenants with rights than tenants-at-will,—a result obviously attributable to the fact that the classes which have the best security to offer are the most eligible customers of the money-lenders. It does not appear that in this respect one Province greatly differs from another, but certain localities are, from special circumstances, either above or below the average condition. Thus, in the Punjab the canal-irrigated tracts are stated to be highly prosperous.

A Commission, then, of unbiassed experts, after carefully considering the best obtainable evidence, gave a verdict directly contrary to that of the Punjab Government and Sir R. Temple.

The officers who know the people best are those who spend five or six months in camp every year, and are left for several years in one district. Settlement Officers generally serve for six

What officers know
the people best.

* Para. 4, page 131 of *Report of the Indian Famine Commission*, Part II.

or seven years in the same district. If it happens to be a quiet rural district, the chances are, that the officer will knock about in camp for half the year and hold an open *levée* every day in the week all the year round. Should there be a cantonment in the district, or a popular hill station, the distraction of society and the delights of Himalayan life will probably prove inimical to the acquisition of intimacy with the people. The same causes affect district officers, who are, moreover, generally older men than Settlement Officers, and therefore less inclined for camp life; and further, they do not, on an average, hold charge of the same district for more than two years. We may presume that such men will generalise more correctly, but have less particular rural knowledge, than Settlement Officers. Of the 14 districts of the Western Punjab, five only are quiet rural districts* without cantonments or hill stations. The head-quarters of the other nine have large garrisons, † and two (Rawalpindi and Hazara) have, in addition, popular Himalayan stations within their limits.

Of the five ungarrisoned districts, two—Gujrat and Shahpur—were settled nearly 20 years ago, in days when cultivators were still comparatively unembarrassed. The other three districts—Montgomery, Muzaffargarh, and Jhang—were settled between 1868 and 1880 by Messrs. Purser, O'Brien, and Steedman, and their reports prove that during their six years' lonely exile in their respective districts, they learnt to know the people as thoroughly as it is possible for English gentlemen to become intimate with uneducated

* Gujrat, Shahpur, Montgomery, Jhang, and Muzaffargarh.

† The strength of the garrisons are, in round numbers, Peshawar valley, 8,000; Rawalpindi district, 7,000; Hazara, 1,800; Jhelum, 1,100; Mooltan, 1,400; Kohat, 3,000; Bannu, 2,200; Dera-Ismail-Khan, 2,500; Dera-Ghazi-Khan district, 1,500: in all, about 28,000 men.

natives. The three districts lie together south of the Salt Range, in the great arid plain described in the opening chapter of this book.

The opinions of the Settlement Officers of those districts, on the condition of the peasantry in them, may be accepted as absolutely correct.

Condition of the peasantry in Montgomery. In Montgomery "the revenue and the seed are usually borrowed; and there are few villages that are not seriously in debt." *

For Jhang, Mr. Steedman, writing in 1880, says :—

† From 40 to 50 per cent. of owners, and 60 to 70 per cent. of tenants-at-will, are in debt. There are very few occupancy tenants in this district. I am of opinion that in the case of owners, their average indebtedness is about 25 per cent. of their income, and in the case of tenants, 50 per cent. Owners' debts are usually due to improvident expenditure on marriages and funerals, or to failures of harvests. What keeps the debt from being paid off, is the ruinous rate of interest charged. An ordinary zemindar always, or almost always, lives up to his income. A harvest fails, and he has to borrow money to support himself and pay the revenue.

In illustrating how "our system" enriches Bunniahs and impoverishes peasants, he says :—

‡ When the owner of a good well or a fat piece of *sailâb* § deals with a Bunniah who is anxious to hold some land in

* To save space here, I omit very lengthy quotations from reports by Settlement and District Officers on the condition of the people in each of the 14 districts, but give extracts from them in appendix A.

† Page 92 of the *Gazetteer* of the Jhang district. I may note generally that the contents of the district *Gazetteers* of the Punjab, as far as revenue matters and the economic condition of the people are concerned, are passages taken from settlement reports. The *Gazetteers* being handier, I generally quote from them.

‡ Page 94 of the *Gazetteer* of the Jhang district.

§ *Sailâb* here means alluvial land subject to river inundation.

mortgage, he finds that his credit is unlimited. It is a case of spending made easy. He can have whatever he wants whenever he wishes. All that he is troubled with is his signature or assent to the usual six-monthly statement of accounts, and at harvest time he will make a few payments to the Bunniah in grain. This goes on for four or five years, or often longer. Then the demeanour of the creditor changes. He insists upon a registered bond for the amount due or a mortgage. The debtor temporises as long as he can; perhaps transfers his account to another shop; often takes his chance of a law-suit, trusting in his luck to evade some of the items. All these devices fail, and he makes over a share in his property on a verbal *lekha-mukhi* contract to his creditor. This is probably the very worst thing he could do. A *lekha-mukhidar* is as hardly displaced as was the old man of the sea. The zemindar never goes into the account, and is fleeced in every possible way. Instead of growing less, the debt grows larger, and a mortgage is at last gained.

A *lekha-mukhi* contract is, I should explain, the first step towards ruin, as under it the debtor surrenders his crop to the Bunniah, who pays all expenses for him, deducts interest due to himself, and finally, is supposed to credit the balance, if any, towards the liquidation of the debt—a consummation seldom, if ever, attained. The *lekha-mukhi* practice is spreading slowly throughout the Punjab. It suits creditors, and lulls the debtors in a false security for a time. It practically reduces him to the position of a tenant, but as in theory he remains the proprietor, he does not grow alarmed. The transaction, moreover, cannot be shown in the annual statement of transfers of land. Thus, debtor and creditor are both pleased. And yet so pernicious is the system, that under it the peasant proprietors of a whole district might be reduced to serfdom without the fact being shown in the agricultural statistics, on which alone the Local Government must form its opinion. After discussing the extent to which expropriation had gone, Mr. Steedman

Lekha-mukhi mortgages explained.

and whilst admitting that the revenue system is partly answerable, finds that—

* The real and true cause of all our woe was the mistaken and misplaced gift of full transferable proprietary right in land to the cultivator, and with it of a vast credit, only limited by the value of that proprietary right. It is only of late that there has been an awakening to the true facts of the case, but the cause stated is the true one. I have not the slightest doubt the thrifty and unembarrassed zemindars of this district can be counted upon one's fingers. So long as a zemindar has credit, so long will he borrow; and so long as he borrows, shall we find our annual returns of land transfers slowly but surely and steadily increasing. The sole basis of his credit is his transferable property in the land. Take this away, and all the security that the money-lender has is the annual outturn of the crops. In such a case we should not hear of zemindars being thousands of rupees in debt. Their credit would shrink, and their debts too. There are numbers of villages along-side the Bar, east of Kot-Esashah, in which there is hardly a single mortgage. Why? Because cultivation is uncertain, and the mortgagee might find the mortgaged land well abandoned in a few months, and himself saddled with the revenue. It is not good enough. Here the zemindars have no credit, and they are not in debt, except to a small amount. You do not find tenants-at-will over head-and-ears in debt. They are in debt it is true, but the limit is the amount that the Bunniah considers is pretty certain to be repaid to him at the next harvest.

Condition of the
peasantry in Muzaffar-
garh.

For Muzaffargarh, Mr. O'Brien
writes in 1879 :—

† No material difference in welfare exists between tenants with occupancy rights and tenants-at-will in this district. The average area owned by proprietors is five acres. The average area cultivated by tenants is thirteen acres. Both proprietors and tenants have an area for grazing, which is practically unlimited. Both proprietors and tenants live in what is literally a hand-to-mouth way. Each harvest barely suffices for the wants of the half year, and is almost always forestalled by borrowing. In regard to their economic state and habits, the agricultural classes naturally group themselves into Mahomedans and Hindus, the Mahomedans being five times

* Page 95 of the *Gazetteer* of Jhang district.

† Pages 82-3 of the *Gazetteer* of Muzaffargarh district.

the number of the Hindus. Of the Mahomedan proprietors, 70 per cent. are in debt. Of the Hindu proprietors, 30 per cent. are in debt. It is very difficult to estimate what proportion the average indebtedness of the proprietors bears to the average yearly income. The lowest estimate in the materials before me says, that the amount borrowed yearly is equal to 30 per cent. of the yearly income of the indebted proprietors.

The highest estimate gives the debts as 80 per cent. of the yearly income. Of Mahomedan tenants 40 per cent., and of Hindu tenants 20 per cent. are in debt. The yearly debts of the tenants are equal to 20 per cent. of their yearly income. The cause of the difference between the numbers of the indebted among Mahomedans and Hindus, respectively, is to be found in the difference of the habits of each class. Mahomedans are mostly spendthrift and improvident: the Hindus are the reverse. Mahomedans are nearly always uneducated: Hindus are always more or less educated. Hindus usually avoid acts that would bring them within the reach of the criminal law, while Mahomedans supply almost the whole criminal population, and so incur the expenses which follow from being suspected by the police and being prosecuted. Mahomedans have only one source of income, *viz.*, agriculture. Hindus, who own and cultivate land, almost always combine money-lending and trade with agriculture. Hindus acquire land as payment for debts. Mahomedans generally borrow money to buy land.

Mr. J. B. Lyall, the late Financial Commissioner of the Punjab, an old and sympathetic Settlement Officer himself, endorsed Mr. O'Brien's opinion in the following words:—

* The indebtedness in this district is greater than in any district with which I am acquainted. I append some very true remarks of Mr. Lyall's on the subject, which he made when reviewing the Assessment Report of the Alipur tahsil:—
“I quite agree with Mr. O'Brien's remarks as to the indebtedness of the agriculturists and the faults in their character, which are its main cause. The same faults are attributed generally to the Mahomedan land-holders of all this southern corner of the Punjab, but they are found in this tahsil in a very exaggerated form. The heavy floods and the fever which follows, have something to do with it. The almost universal prosperity of the Kirār land-holders is a proof that there is nothing crushing in the

general pitch of the assessment. But as the Biluches, Syads, and Jats say, it would be folly to expect them to alter their characters and habits, and rival the thrift and frugality of the Kiràrs. These Kiràrs are the Jews of the country, and have a special natural aptitude for earning and saving money. The general character of the agriculturists must be considered in assessing; but from what I have seen here and in Mooltan and Dera-Ghazi-Khan, I do not believe that a very light assessment would tend to get them out of debt.

In the neighbouring districts of Mooltan and Dera-Ghazi-Khan, the general condition of the peasantry is perhaps a shade less unsatisfactory than it is in Muzaffargarh.

Condition of peasantry in Mooltan and Dera-Ghazi-Khan.

Throughout most of Mooltan, 50 per cent. of the proprietors are reported to be in debt, but many only temporarily so,—*i. e.*, with thrift and several good harvests in succession—unlikely coincidences—they could extricate themselves. In Dera-Ghazi-Khan two-thirds of the Mahomedan land-owners are estimated to be involved, but I think the proportion is exaggerated, as Government has greatly strengthened the position of the Biluch tribal chiefs, and the district policy has always been to uphold their authority in every way, even to discountenancing the acquisition of rights in land by Bunniahs.

In Bannu.

In the Bannu district which I settled, the peasantry in two tracts are seriously, and many hopelessly, embarrassed, namely, in Marwat (Trans-Indus) and in the Mianwali up-lands (Cis-Indus). In both I imposed a very light land assessment. But as the average annual rainfall is only about 9 inches, very uncertainly distributed, drought is frequent, and in some years the crops entirely fail.

In the Dera-Ismail-Khan district indebtedness is general. The alienation of rights in land to non-agriculturists, except in tracts protected by a complicated land tenure and a fluctuating

In Dera-Ismail-Khan.

system of land revenue, has been so seriously on the increase since the settlement as to have attracted the attention of Government. Commenting on a remark made by the Settlement Officer (Mr. St. George Tucker), that in the Cis-Indus parts of the district many of the small Mahomedan proprietors would eventually have to be sold up, Mr. J. B. Lyall, already mentioned, wrote as follows when Settlement Commissioner :—

* All we can do is to amend anything in our revenue system which tends to hurry on the process. Only a minority of these men have proved fit for the improved status which we gave them; the majority will descend in time into the position which suits them—of mere tillers of the soil, with enough to live upon, but no credit to pledge, and no property to lose. Their original position under native governments was little better than this. It is, of course, the too frequent elevation of the despised Kirār or Hindu money-lender over the heads of a naturally dominant Mahomedan population, which is the worst part of the change.

Whilst admitting Mr. Lyall's sympathy with the struggling agriculturists of the Province and his unrivalled knowledge of their economic condition, I cannot agree with him in holding either that we have done our best to amend our revenue system and assimilate it to the character of the people who pay the revenue, or of the climate which determines the quantity of each harvest. I draw attention to the wailing helplessness with which he seems to accept the inevitable, that small Mahomedan proprietors, though the dominant population, are doomed to sink beneath the superior thrift of the despised Hindu money-lender. When officers in high position, owing to reverence for "our system" and deference to the natural disinclination of Government from what the conservatism of long service regards as retrogressive innovations, throw up the sponge, as Mr. Lyall appears to do here, the chances of

* Page 91 of the *Gazetteer* of Dera-Ismail-Khan district.

wholesome reform in a vicious system become very improbable.

I maintain, however, that we dare not in our own interests, as a handful of foreigners governing many millions, subject the dominant to the weaker classes amongst the people. Mr. Lyall would apparently leave things to drift as at present. If his doctrine is endorsed throughout India, it will eventually lose us India.

There remains only one of the eight districts of the south-western plain to be noticed—
 Condition of the peasantry in Shahpur. As it was settled in 1866, the economic condition of the people has not been closely studied, but recent investigation by the district officer proves that “the peasants are generally in debt.”*

Thus there is a consensus amongst those most competent to ascertain facts that south of the Salt Range most agriculturists are in debt; a large proportion, not less than 25 per cent., hopelessly so; that rights in land are passing from them—except in good years—to the money-lending class, in an annually accelerating ratio; and that the causes for indebtedness are ascribable partly to characteristics common to all ignorant Mahomedans, but chiefly to “our system,” in which the facility it gives for borrowing up to the market-value of a holding, holds a prominent place.

Now, turning to the districts north of the Salt Range, we find that in submontane tracts, in which the certainty and sufficiency of the rainfall generally ensures good crops, those of the people who are not idle drones are at present fairly prosperous.

Condition of agriculturists north of the Salt Range is comparatively fairly prosperous.

* Page 57 of the *Gazetteer* of Shahpur district.

The amount and periodicity of the rainfall varies inversely to the distance from the foot of the Himalayas on the north and the western limits of the south-east monsoon on the east. South of the Himalayas a zone of from 30 to 50 miles in width enjoys a fall averaging over 30 inches, distributed with such an exact periodicity that the cultivator is almost as certain of a fair return each harvest as if his lands were irrigated from a perennial canal. Thus throughout a large part of the Gujrat, Jhelum, Rawalpindi, Hazara, and Peshawar districts, when peasant or landlord is seriously involved, the cause is not imputable to the inelasticity of the revenue system. Further south the rainfall gradually diminishes, until from 10 inches immediately south of the Salt Range, it decreases to six in the southern tracts of Muzaffargarh and Dera-Ghazi-Khan, which occupy the extreme south-east corner of the Punjab, and are therefore farthest from monsoon limits and the Himalayas. In them, too, the fall is badly distributed. Half the year's discharge frequently occurs as a deluge in 48 hours in July or August, and is followed by five or six months of cloudless skies.

Considering each district separately and taking the three—Hazara, Peshawar, and Kohat—
 Condition of agriculturists in Hazara, Peshawar, and Kohat. which comprise the frontier or Peshawar division first, we find that in all the three complicated tenures and the turbulent, revengeful spirit of the wild border tribes who hold the land, coupled with the rarity of failure of crop and politic lightness of the revenue assessments, have hitherto restrained all earth-hunger—except in the vicinity of cantonments and towns—on the part of the money-lending classes. None knows better than a Bunniah the localities in which land is not a safe investment. The arm of the law may be

long and strong, but where an asylum in independent hills is near, and the village community a brood of reckless Pathans, fear and prudence in combination make the Bunniah fight shy of the status of mortgagee or proprietor. The levelling effect of the railway now open to Peshawar and the Swat River canal flowing through Yusafzai, will soon encourage the Bunniah to cast aside his timidity, and invest freely in land throughout the Peshawar valley. No close inquiry into the economic state of the people in any of the districts of the Peshawar division has been made ; but the late Colonel Hastings, *C. B.*, who settled Peshawar, reported that debts were increasing. For the Hazara district Colonel Wace, now Junior Financial Commissioner, an officer whose 25 years' service has been devoted to land settlements, after six years' observation gave his opinion that though there was "more borrowing than before, there was less real indebtedness." This remark is true for the cultivating classes only. The landed gentry of the district are almost all deeply involved in debt. They deserve no sympathy, their embarrassment being due to their personal extravagance and carelessness. In Appendix A I give *in extenso* some admirable remarks by Colonel Wace on agricultural indebtedness and its causes before and since annexation. For the Kohat district—which is small, poor, half *jagir*, and merely a maze of stony hills and narrow valleys inhabited by the wildest Pathans on our frontier—no inquiry has been made, but its wildness and poverty probably largely secure to the people the possession of their own lands. Information on the indebtedness of agriculturists and statistics showing transfers of land to non-agriculturists, are exceptionally imperfect for all the three frontier districts, as indeed they are generally elsewhere, except in the cases of recent settlements, in which the Settlement Officer has made the subjects a special study.

In the other districts of the northern table-land the

In other districts of the northern table-land.

people are generally believed to be fairly prosperous. Those who are involved are the landlords, who cultivate their lands through tenants, and the peasantry in the outlying southern tracts of the districts in which the rainfall is less in quantity and more uncertain in time of fall than nearer to the Himalayas.

Two temporary causes have hitherto protected the cultivators of the northern table-land.

Two causes, both temporary in their effect, in addition to the all-important one of a fair outturn, have combined to preserve a measure of prosperity to the agriculturists of the Sub-Himalayan zone.

No revision of settlement has taken place in Gujrat

Old settlements are still running or new are very light.

since 1867-68. The assessment then made was notoriously, even at that time, unreasonably light. The Jhelum settlement of 1880 is moderate. The revision of the Rawalpindi settlement of 1860-61 is still in progress. But early this year the new demand was announced and the assessment raised, including cesses, by nearly 40 per cent. Thus hitherto throughout the Cis-Indus districts of the northern table-land, the people have been far lighter assessed, considering how blessed they are with a fair prospect of an annual crop, than in the rainless districts south of the Salt Range. This exemption from a full half-assets revenue demand has just ceased for Rawalpindi, and cannot continue much longer in Gujrat. In Jhelum the revised settlement, though light, raised the demand, in 1880, 19 per cent. As there have been no bad years since then, the effect of the increased demand has still to be felt.

Work on Northern State Railway.

Then the work on the N.-W. State Railway, completed in 1882, which runs through the whole width of all the districts of the northern table-land, except Hazara and Kohat, for a length of 250 miles, put annually, for several years in succession,

lakhs and lakhs of rupees into the pockets of the peasants. The Kabul War, too, (1878-80) brought wealth to people and Bunniahs alike. The present comparative freedom from serious debt of the peasants north of the Salt Range cannot be taken as a criterion for the future. The sources of profits and savings open to them between 1870 and 1885 are one by one closing.

Reviewing all the *data* available for forming an opinion on the state of indebtedness of the people in the Western Punjab north and south of the Salt Range, we find that the gloomy conclusions of the Famine Commissioners are amply justified for the eight districts south of the range, including the range itself; but that throughout the northern table-land—wherever the crops are fairly good and certain—the peasantry are reasonably prosperous, whilst certain classes of landlords, from their own extravagance and inattention to business, are somewhat involved. We also find that exceptional causes, now at an end or ceasing to operate, have of late years either enriched the peasantry or helped them to meet all expenditure from income. We further find that the condition of the agricultural classes, wherever over-population does not exist, corresponds with the certainty of a fair spring harvest each year, which again depends on the amount and periodicity of the rainfall. Thus the peasantry are generally free from serious indebtedness in the submontane zone, more involved as the Salt Range is approached, and south of it almost universally so. Finally, a close perusal of Settlement Reports establishes that wherever indebtedness does not arise from our revenue system, climatic causes or misfortune (*e. g.*, litigation, loss of cattle, or fire), those who are embarrassed, or have alienated a large part of their ancestral lands, are the least laborious and least thrifty classes in the country.

CHAPTER IX.

RESTRICTION ON FREE TRADE IN LAND NECESSARY.

FIFTEEN years ago, when reviewing the Revenue Report of the Punjab for 1871-72, the Lieutenant-Governor remarked :—
Statistics of land alienated to money-lenders still imperfect. “There do not appear to be any statistics available for showing the amount of land which generally, since annexation, or during any particular year, has been sold or mortgaged to money-lenders by zemindars.” Some figures having been prepared, the Lieutenant-Governor in the following year “resolved” that they were “indicative of remarkable prosperity and a very moderate land revenue assessment.” Since that year first regular settlements and the revisions of such settlements earlier made, have been completed or are in progress in 22 * districts, and efforts have been made to obtain reliable statistics as to transfers of rights in land, but with small success ; for, writing on December 24th, 1885, the Lieutenant-Governor, reviewing the Revenue Report for 1884-85, remarked that such returns were still admittedly defective and uncertain in meaning.† He then proposes

* Detail is, first regular settlements completed in seven districts, revisions in eleven, and in four more still in progress.

Famine Commission's conclusions on alienations made to money-lenders.

† The available information on the subject was summed up by the Famine Commission at page 126, para. 7, Part II of their Report of 1880, as follows :—

“ In the Punjab the sale of landed property is not decreed by the civil court as an ordinary process for recovering a debt, and is only sanctioned in special cases, where there is no other possible way of satisfying a creditor. The number of such sales has been insignificant. The transfers of land by private sale and mortgage in the three years 1874-77 have concerned 850,000 acres, or an eightieth part of the area of the Province. The consideration

that typical villages should be selected, and the history of transfers worked out in them, so that by the "patient study of particular instances," Government "may be enabled to generalize with confidence on a wider field."

Such is the disheartening outcome of 15 years of perfunctory investigation—except in the case of zealous Settlement and District Officers—into the broad facts of the statistics of land alienations, to say nothing of the minutiae of the remoter causes of agricultural indebtedness. The explanation probably is, that it is in the nature of things that the attitude of most Provincial Governors on the land question of their charges should be one of *laissez aller*, until the conservative optimism of 30 years of Indian service is roused into spasmodic action by some catastrophe, such as occurred in the Bombay Deccan in 1875.

Were it not so, agriculturists would not have risen in 1857, as they did, against their auction-purchase landlords in the Gangetic Valley. Nor could the Famine Commission, 23 years later, have recorded the discreditable fact that 27 per cent. of the whole land of the N.-W. Provinces had, by 1873, passed into the hands of the trading

paid has amounted to 145 lakhs of rupees, of which half was contributed by agriculturists and half by non-agriculturists. The amount of land which has passed yearly into the hands of the trading community, has therefore been only one-five-hundredth part of the area of the Province. In the North-Western Provinces the civil courts are not governed by the same rules as obtain in the Punjab, and sales of landed property in execution of decrees are comparatively common; so that anxiety has at times been felt as to the extent to which land has changed hands and become the property of traders. In a special inquiry held in 1873, it was ascertained that during the preceding 35 years, 17 per cent. of the land had passed from agriculturists to the trading classes, who then held 27 per cent. of the whole. But the rate of transfer had much decreased in later years, and it may be added that since then a change has been made in the law of Civil Procedure, under which sales of land have become much less a matter of course than they were."

classes. It is small consolation to know that, owing to later changes in the Code of Civil Procedure, the annual rate of transfer has since been slower. We are drifting in the same way in Lower Burmah, in which the holdings of the peasant cultivators are, I believe, being bought up by money-lenders and speculating capitalists, and no doubt a similar exploitation of Upper Burmah has already begun also.

But to return to the case of the Punjab, in which, except in regions of small rainfall, the evil of peasant expropriation is not yet generally serious. Assuming, as the Lieutenant-Governor says, that before legislation it will be wise to ascertain all obtainable particulars as to the causes of the transfers of rights in land and of indebtedness in typical villages, why spend 15 or 20 years in considering the matter? Such information could be collected in six months for the whole Province at little or no cost. Let a good Settlement Superintendent or Extra Assistant Commissioner be sent to each district; let him go to each selected village, and publicly investigate on the spot the history of each peasant's indebtedness and alienations of land, and of each money-lender's position, and the thing is done. ✓

All necessary statistics could be collected without expense in six months.

All material facts on which to base reform are well-known.

Facts are reduced into six propositions.

Formulated as six propositions, those facts are:—

I.—The gift of full individual proprietary right—in which term is included the rights of occupancy tenants—so extended each man's credit that it enables him to borrow up to the market value of his holding.

Gift of property in land.

2.—Punjab agriculturists were, and still are, unfit for

Unfitness of peasants for such a gift. such a gift, the vast majority of them being to-day, after 36 years of British rule, almost as rude, ignorant,* and imprudent as they were upon annexation.

3.—In tracts in which the outturn is uncertain the

Fixed cash assessments a mistake in rainless tracts. rigidity of the land revenue system—which demands crop or no crop after each harvest-time a cash payment equal to about the value of one-sixth of an average yield—together with a vicious but natural propensity on the part of the people to live for the day only, have involved a considerable and annually increasing percentage of them in serious or hopeless indebtedness.

4.—The Acts, Codes, and Rules affecting the relations

Over-legislation. between ignorant debtors and educated Bunniah-creditors, all tend to benefit the latter at the expense of the former.

5.—Making due allowance for the consideration shown

Expropriation of peasantry by money-lenders. to agricultural debtors in the new Civil Procedure Code (Act XIV of 1882), and in the Law of Contract as interpreted in recent Chief Court Circulars and Decisions, the fact remains that agricultural indebtedness is increasing, and that if the acquisition of rights in land by Bunniahs be not arrested, agrarian troubles will shortly arise.

* A compulsory school cess, amounting to 1 per cent. on the land revenue demand, is levied in the Punjab. West of the Jhelum meridian it is chiefly paid by Musalmans, but utilized by Hindus. The number of boys in primary schools in the 14 Musalman districts, ranges from 1 in 59 of the male population in Jhelum to 1 in 154 in Montgomery. Most of the boys are only learning to read and write. More than half are Hindus. Of Musalman agriculturists, perhaps one in a hundred can read in an advanced district like Jhelum or Rawalpindi, and one in three hundred in a backward district like Montgomery or Hazara. South of the Salt Range there are hundreds of villages in which not a single Musalman agriculturist can read or sign his own name.

6.—No Government, particularly a handful of foreign
Its danger for a gov- sojourners, such as we are, can permit
ernment of foreigners. the hereditary land-holding classes, who
 compose “the people of the country,” to be subjected
 to 20,000 or 30,000 money-lenders—all men of no
 political weight. In the western half of the Punjab, this
 consideration derives additional force from the fact that
 the “people” all belong to warlike Mahomedan tribes,
 and therefore look upon Hindu money-lenders with
 contempt.

The above six propositions being accepted, the
Direction of re- corollary follows that for the Western
form. Punjab, if not for the whole Province,
 the process of expropriation must be arrested as soon as
 possible by wise reforms in our land revenue system for
 tracts of deficient rainfall, and in our civil law and pro-
 cedure generally; and, moreover, the aim of some of the
 reforms must be to so diminish credit that a careless man
 will only borrow under the compulsion of necessity.

Whether 25 or 50 per cent. of the borrowing classes
Interesting but im- are heavily involved ; whether the per-
material issues. centage of peasant proprietors, in-
 debted land-lords or occupancy tenants, is the largest;
 whether the first serious debt, or the transition from extri-
 cable to hopeless* embarrassment, arose from misfortune,
e. g., a bad season, or loss of plough-cattle, or preventible
 causes, such as unnecessary expenditure; what ratio
 the mortgage value of land bears to the selling value;
 whether the consideration is generally overstated in sale-
 deeds in order to defeat the possible claims of pre-emptors,
 and many other matters,—are all questions, no doubt, in-
 teresting in themselves, but of no vital importance what-
 soever as solvents of the great land problem before us.

What we have to do is to stop unnecessary borrowing ;
 Our duty stated. to minimise involuntary indebtedness ;
 to preserve to the hereditary peasant
 proprietors of the Province the possession of the land and
 of its fruits ; to simplify the law of contract, and the pro-
 cedure by which it is administered in our Courts; and,
 generally, to adapt our system of civil justice to the means
 and capacities of the peasantry : not to elaborate—as is
 the tendency—the system so as to make it profitably
 comprehensible only to the superior intelligence of money-
 lenders and legal practitioners. ✓

With these preliminary remarks I shall proceed to
 state and discuss the various reforms
 Heads of reforms classified. which, after long consideration of the
 subject, commend themselves to me as most practicable
 and susceptible of easy introduction, without materially
 affecting any vested rights or shocking any prejudice.
 The reforms, of which I shall write, may be grouped under
 the following heads:—(1) *Land Tenure*; (2) *Land Revenue
 System*; (3) *Civil Procedure*; (4) *Specific Miscellaneous
 Reforms*.

CHAPTER X.

RESTRICTIONS ON THE FREE TRANSFER OF LAND.

1.—*Land Tenure.*

THERE is at present free trade in land. The claims, if any, of pre-emptors being satisfied, Free trade in land. landlord, peasant-proprietor, occupancy-tenant, and tenant-at-will, may sell or mortgage any or all of their respective rights to whomsoever they please. Conveyancing is cheap and expeditious. If the transfer be in writing, a small stamp duty is charged, and if the consideration is over Rs. 100, registration is compulsory, if under optional. If the parties prefer it the transaction can be carried out by verbal agreement only. In every case when possession is given, what is called a "mutation of names" must be effected in the annual village papers through the Tahsildar or his Naib. This operation now takes place where the land is situated, costs nothing, and is completed in a few minutes.

Since the last settlements of rights and of land revenue in the different districts of the Punjab, Bunniahs have acquired rights in many lakhs of acres as proprietors by purchase as mortgagees or *lekha-mukhidars*, * or simply by having, after the Government revenue has been paid, a first claim on the produce as interest-in-kind on a debt due. Some charges of this latter kind have their origin in a practice common amongst poor proprietors and tenants, according to which the cultivator is advanced seed-grain at sowing

* For definition of the term, see page 83.

time, and repays it with interest at harvest, either by the surrender of a share of his crop or of a certain measure of it. No reliable statistics have yet been prepared, showing for each locality what percentage of the cultivated area has been acquired since annexation by men of the trading and money-lending classes. In some localities, such as in parts of Muzaffargarh, Khatri Bunniah's farm as well as lend money, but the number of such men is inappreciably small.

Speaking generally, land owners are most miscellaneous, though still chiefly confined to persons belonging to agricultural tribes and castes, wherever population is dense, sub-division of land minute, and husbandry, by reason of the application of capital on irrigation or other works for increasing the productive power of the soil, good. Thus, in the rich Bannuchi tappahs (parishes) of the Bannu district, in parts of the Chhach plain, in the Rawalpindi district, and in the vicinity of Peshawar city, although the original Pathan proprietary families are still dominant, the buying and selling, mortgaging and bartering, of land in small plots has been for more than a generation so great that a large proportion of the cultivating owners are of mixed castes. Similarly, in the neighbourhood of towns and large, rich villages, the original owners no longer hold the greater part of the land,—Arains, Khatri's, and men of the village,—menial and artisan castes being frequently found as full or part owners and as occupancy tenants.

In the case of wells used for irrigation and the cultivated area attached thereto, Bunniah's (Khatri's) are often the sole owners, or hold shares, and where they do so, will sooner or later acquire the whole. Whenever a man of the money-lending class secures an interest in a well, the other share-

Mixed owners of certain rich classes of land.

Well lands.

holders, if men of an agricultural caste, feel that their shares will some day be absorbed too. Formerly a peasant wishing to sink a well had to associate a monied man with himself in order to raise the necessary capital, and the well and lands attached thereto were shared between them equally. This is the commonest origin of the *adhlapi* tenure.

Since 1871, Government has encouraged landlords to

Liberality of Government in making advances for improvements and relief purposes.

take advances for agricultural improvements, particularly for well sinking.

This wise measure is now well known.

Large sums have, for the last 12 years, been advanced; * hence the landlord, if not in debt already, has no longer occasion to go to the money-lenders for means to sink a well. With the exception of isolated plots and villages, the above are the only localities in which the representatives of the original proprietary body have succumbed before the superior means and energy of outsiders. The proportion of all such lands in which money-lenders as owners, mortgagees or receivers of rent, have rights, is probably under 30 per cent. of their whole area. It may be laid down as a general proposition that wherever natural advantages have been great, over-population has caused the minute sub-divisions of estates, and has consequently so

General proposition.

* See Land Improvement Acts XXVI of 1871 and XIX of 1883; also Agriculturists Loan Act XII of 1884 and its predecessor Act X of 1879. In 1871-72 the amount of advances made to agriculturists in the Punjab was nearly a lakh and a quarter, and has since that year been steadily increasing, and now aggregates over five lakhs in each year. The detail for 1884-85 was—

			Rs.	a.	p.
Agricultural improvements	...	...	4,51,814	0	0
Seed-grain	...	...	19,468	0	0
Bullocks	...	...	41,925	0	0
			5,13,207	0	0

operated as to freely admit outsiders as purchasers and mortgagees; and further, that in tracts suitable for the profitable working of irrigation wells, until recently the capital of the money-lender was generally required to

A small reform in land tenure recommended. help the land-owner to sink a well. Giving due weight to the above considerations, and fully recognising the

necessity of imposing no unnecessary restrictions on the investment of capital in land; whenever such investment will be spent on increasing the productive power of the land, I proceed to state the reform in land tenure which I re-

commend for adoption. *I would make it illegal for any person deriving profits from a shop or from money-lending, to acquire any interest in arable or pasture land, other than land in the immediate vicinity of a town or large village, or manured and irrigated land anywhere, or irrigated alone if from a well.* To this

Restriction in free trade in land proposed. general rule I would add two exceptions, namely, I would permit seed-grain to

Two exceptions to general rule. be advanced, to be repaid at the next harvest only, and I would empower the District Officer to sanction a sale or mortgage in favor of a person of the proscribed class, whenever security was given that capital not less than a sum equal to ten times the annual land revenue of the land, would be invested in improving its productiveness within a reasonable time.

Such an alteration in the law, whilst leaving ample

Probable effect of proposed reforms satisfactory for all classes. incentive for the further investment of capital in land, would effectually stop the further degradation and expropriation of the agricultural by the money-lending and shop-

keeping classes, except in localities in which property has already so largely changed hands that tribal and village predominance and cohesion no longer exist. The deprecia-

tion of land in areas closed to shop-keepers and money-lenders would be almost inappreciable. Agriculturists would look upon the change as a just and wholesome measure in their interests ; and as to money-lenders, some would concentrate their earth-hunger upon the more and better protected localities still open to them, whilst others would take to agriculture as a sole pursuit. Many of the smaller Marwari money-lenders, whom the Deccan Ryôts Act deprived of their occupation, took to agriculture as their sole livelihood.

If arguments from outside are required in support of some restrictive measure, such as I am proposing, we have the practice of all native governments, ancient and modern. No State of the present day—unless it be some with institutions recently remodelled on our own—countenances the acquisition of land by its trading and money-lending classes. Popular opinion, which is all-powerful in such States, would not permit it. Looking further abroad, I believe I am correct in asserting that the Jews in Russia, and throughout the east of Europe generally, are disqualified from holding arable land. The peasantry in those countries are ignorant and prejudiced no doubt ; but if they are so, they are as grown men to babes when compared with the peasantry of the Punjab.

It will be objected that my proposal, whilst leaving credit unshackled in rich localities, kills it in poor tracts, where it is most wanted.

Arguments against proposed reform answered.

The answer to such an objection is simple. There is, in the first place, no comparison between the worldly intelligence and wisdom of the cultivators in the areas I would leave open to free competition and reserve for agriculturists alone. The former are generally clever enough to hold their own, whereas the latter are unsophisticated

yokels who cannot. But besides this, these latter are so utterly improvident that when hard times come they prefer to live on in idleness on money lent, rather than to curtail their expenditure or work as labourers. The best possible discipline for such men in hard times is to constrain them to economise and live laborious days by contracting their borrowing power. When the season of distress is over, State aid can be furnished in the rare cases in which it may be necessary under the Agriculturists Loan Act already referred to. The money-lenders' apologists, who maintain that at such times the village usurer is a necessity, speak nonsense. It is clearly better to compel the Indian peasant when his crops fail to live sparingly, work hard, and, if absolutely necessary, borrow from the State at 6 per cent. interest, than to, as at present, encourage him to eat the bread of idleness, and borrow from an unscrupulous Bunniah at 18 to 36 per cent. interest. There is always plenty of work to be found at remunerative wages for willing hands, if not at home, at a reasonable distance from it.

In order to illustrate the possible effect of the alterations in the law which I have proposed, I have prepared a statement (Appendix C), from which it will be seen that in the 14 Musalman districts of the Punjab, 4,544 square miles of the most productive and cultivated land will remain open to the capitalist, whilst the remainder, or 57,248 square miles of inferior productiveness, will be reserved for agriculturists alone. From an examination of the statement, it will be seen that in each district a reasonable quantity of unreserved area is available for the investments of the capitalist; and from a personal knowledge of the districts, I may add that that area is generally fairly distributed amongst the different tahsils or sub-collectorates. Thus

Statistics illustrative of effect of proposed reform.

persons wishing to invest in land will never have to go far afield to find a suitable locality : moreover, if prepared to immediately sink capital on permanent improvement, calculated to increase the productive power of the land, unreserved areas will be open to their enterprise.

CHAPTER XI.

REFORM IN OUR LAND REVENUE SYSTEM IN
RAINLESS TRACTS.2.—*Land Revenue System.*

IN Chapter VI of this book, I have shown that one of the most unfortunate changes introduced upon annexation, was the substitution of fixity for theoretical elasticity of demand in tracts of precarious outturn. For 20 years the system was maintained by successive Lieutenant-Governors and Financial Commissioners, under the mistaken belief that as the assessments were absolutely light when compared with the yield of an average year, their rigidity was teaching prudence to an improvident people. For 20 years the axiom that the profits of good years were, or ought to be, more than a set-off against the losses of bad, was the curt and freezing rebuke invariably administered by authority to every District Officer who ventured to impugn the practice of extorting revenue from needy, cropless peasants. But as settlements became more and more elaborate and inquisitorial in character, the old axiom was discovered to be a paradox.

Between 1870 and 1880, the best modes of adapting the land revenue to the variations of the seasons were freely discussed, but each was successively damned by what was termed the "fatal objection," that to work any fluctuating system on a large scale, demanded an impossible postulate, *viz.*, a large body of honest native operatives.

During the Regular Settlements of most of the districts of the south-western plain—especially in those of Bannu, Dera-Ismail-Khan, Muzaffargarh, and Mooltan—several

Fixity of demand
a mistake in tracts of
precarious outturn.

Discussions on
modes of adapting the
demand to the out-
turn.

Fluctuating assess-
ments introduced in
riverain lands.

forms of fluctuating assessments (some of which had never been formally sanctioned) were either quietly recognised, or introduced chiefly for lands in the bed of the Indus and Chenab rivers.* Such lands being subjected to great vicissitudes owing to the uncertain action of the inundations in the flood season and to the changes which then occur in the course of the streams themselves, the absurdity of maintaining a fixed assessment, where one existed, and the inadequacy of the palliatives of the one per cent. and ten per cent. rules, † where one or other was in force, were self-evident to the Settlement Officer; hence a fluctuating system of annual assessment on a common-sense basis was introduced. The area so treated is shown at page 113.

In 1879 the Government of India, in consequence of the revelations forced upon its notice by the report of the Deccan Riots Commission, made general inquiries throughout Upper India on the possibility of ameliorating the condition of agriculturists with due regard to the claims of the State upon them, and advocated the introduction of elasticity of demand wherever the uncertain character of harvests made it desirable. Experts were consulted throughout the Punjab, and a consensus of opinions obtained in favor of some adaptation of the demand to the outturn; but officers disagreed in details as to system. The result was, what I may term, an abstract resolution from the pen of the then Lieutenant-Governor (Sir Robert Egerton), that theoretically a reversion to kind assessments was advisable, but practically impossible, and that no other

* The Jhelum river joins the Chenab about 10 miles south of Jhang. The Ravi joins their combined stream some 40 miles further south, and the Sutlej-cum-Bias unites with them some 40 miles south of Mooltan. Natives call the united streams by the name of one rather than by the more correct terms of Trinab or "three waters," and Punjnad or "five streams."

† For explanation of terms, see page 112.

fluctuating system was feasible. During the inquiry the Settlement Commissioner (Colonel Wace, now Junior Financial Commissioner), stated that throughout the Western Punjab a fluctuating system had been, or was being, introduced in all tracts in which it was applicable.*

The following statement, prepared from *Settlement Reports, Gazetteers*, and personal knowledge, gives the tracts of short rainfall and uncertain crops, and precarious crops in which a fluctuating system, though applicable, has not yet been introduced :—

1	2	3	4	5	6	7
District.	Tract.	Average annual rainfall in inches.	AREA IN SQUARE MILES DEPENDENT ON RAINFALL.			Estimated land revenue of area in column 4.
			Cultivated.	Uncultivated.	Total.	
Bannu ..	{ Marwat ... Isakhel ... Mianwali ...	12	470	2,450	2,920	1,50,000
Dera-Ismail-Khan	{ Cis-Indus uplands and part of Tank.	8	77	6,037	6,114	25,000
Dera-Ghazi-Khan	The Pachad ...	8	375	1,942	2,317	90,000
Rawalpindi ...	{ Pindigheb ... Fattehjang ...	19 15	605	3,344	3,949	1,94,000
Jhelum ...	{ Pind-Dadan-Khan Chakwal ... Tallaganj ...	18 15 19				
Shahpur ...	All but sailâb lands	13	98	3,571	3,669	31,000
Montgomery ...	Ditto ...	9	16	4,015	4,031	5,000
Jhang ...	Ditto ...	10	5	4,059	4,064	3,000
Meoltan ...	Ditto ...	6	164	4,231	4,395	52,000
	Total ...	...	2,562	32,225	34,787	7,90,000

* In Appendix D will be found the remarks and recommendations of the Indian Famine Commission (1880), on relative advantages of fixity and elasticity of demand, to which I have ventured to add a note of my own, as I do not entirely agree with the Commission, and think that were all the *data* now available before them, they would come to the same conclusion as I do in the following pages.

The various modes of adapting land revenue collections to the seasons, which now either obtain over selected areas or have been recommended as feasible, are the following:—

Four modes of obtaining elasticity of demand stated.

(A).—*The old native system commonly called kham tahsil or direct management, under which a share of each crop is taken in kind or by appraisement.*

(B).—*A cyclical system under which the full revenue demand would be imposed for a cycle of years, and realised within the period at the discretion of the local land revenue authorities, according to the character of each season's yield.*

(C).—*A portion of the revenue—probably one quarter of a full assessment—to be fixed, and differential crop rates superadded on each season's cultivated area.*

(D).—*Fixed village rates or differential crop rates to be levied according to the acreage actually cultivated each season in each village.*

Of the above systems, the first (A) is theoretically the fairest. It is still resorted to in the rare cases when proprietors refuse to engage, that is, do not accept the fixed assessment imposed at settlement. In most cases the yield is actually measured or appraised, and the Government share is then commuted into cash, and that demand realised from each cultivator. In the Dera-Ismail-Khan district a frontier tribe called Gandapur, occupying a compact block of territory, refused to accept the assessment imposed in 1878, owing to which, and for other reasons, the maintenance of "direct management," which had been in force since annexation, was continued. The tract covers 311 square miles, in some years bears splendid crops, in some

Direct management.

none at all, and is altogether a country in which a fixed demand would entail great hardships. The demand varies from Rs. 12,000 to Rs. 40,000 each year. I worked the system for three years myself, as well as a somewhat similar one in a tract further to the south, held by a semi-independent Pathan tribe called Usteranahs. In the Gandapur tract, in order to diminish inconvenience, prevent fraud, and partly also as a safeguard against arson, the whole yield was, season by season, collected upon five or six threshing floors, and then divided into heaps, according to the share taken respectively by village menials, tenants, and other cultivators, mortgagees, proprietors, and the State. The latter's share being weighed, was commuted into cash at a liberal rate. Though personally well disposed to the system, my experience is, that it is burdensome alike to the people—especially to the actual tenant cultivators—and to Government officials, unpopular with both, and altogether unsatisfactory.

The second (*B*) or *cyclical system* was proposed and warmly advocated, between 1870 and 1875, by several Settlement Officers—
Cyclical system.
myself at first amongst others—and still has supporters. It is, however, quite impracticable. Unless the whole cycle can be administered by the same revenue officers, it would be impossible to fix individual responsibility, on which alone success would depend. As a cycle of the seasons means a period in which—besides good, bad, and indifferent crops, or none at all—at least one bumper yield will be harvested, it follows that seven or eight years would represent the cycle. In such a long term the District Officer (Collector) would probably be changed three times, and the local Tahsildar (Deputy Collector) at least once. Other objections need not be given, as the one already stated is insurmountable.

The third system (*C*), called in vernacular *chhar-*
am mustakil or "quarter fixed," under
 The compromise system. which a portion of what otherwise
 would be the annual revenue demand is fixed, and village
 or crop rates taken, in addition, on the actual acreage cul-
 tivated each season, was introduced in the Takwara circle,
 in the Dera-Ismail-Khan district, in 1878, and is still in
 operation. It was worked by me for three years, and, like all
 half-measures, is, I think, a failure. The tract in which it
 was introduced covers 138 square miles, and under the
 double method in force, yields from Rs. 10,000 to Rs. 20,000
 in land revenue each year. Each village was fully assessed
 at settlement in the ordinary way, and one quarter of the
 demand was treated as fixed, and in addition differential
 crop rates were imposed on each year's cultivated area.
 In some villages, which had been unlucky in rainfall or in
 catching a passing flood from an occasional hill torrent,
 the fixed fraction in a term of five years actually exceeded
 the revenue derived in that period from the crop rates. This
 fact proves that for such a country any fixed revenue, even
 pitched as low as 300 per cent. below the full assessment,
 which would otherwise have been taken, was an unreason-
 able burden upon a poor peasantry. All that can be said
 for the system is that, as a step towards fluctuation, it is
 perhaps, on the whole, an improvement on direct manage-
 ment (*A*) on a large scale, because it is comparatively
 easily worked, and does not interfere too much with the
 operations of husbandry.

There remains the last or what I may call the "annual
 Annual simple rate system. simple rate system (*D*)," under which
 circle, village, or crop rates are fixed at
 settlement, and taken each season on the actual acreage
 then under cultivation. Throughout the riverain tracts of
 the Punjab, subject to vicissitudes from inundation and

changes in the channels of rivers, the principle of fixed assessments had soon after annexation to be relaxed, and was replaced by two systems known, the one, as the "10 per cent.," and the other, as the "1 per cent. rule." The percentage in each case was that of actual loss or gain from diluvion or alluvion. When more, the Government demand was proportionately reduced or raised; when less, the revenue-paying proprietors of the village were alone the losers or the gainers. Between 1862 and 1864 the changes in the course of the Indus, in the Bannu district, were so great that the former rule was extended and made applicable to the whole area cultivated in each year between the two high banks of the river. Thus, whenever in any village the loss or gain in cultivated area, however caused, exceeded 10 per cent, village acreage rates were imposed over the whole of it. Even this expansion of the old narrow rule fell short of being satisfactory. It was, therefore, further modified by me in 1871-72, from which year a fixed acreage rate was annually charged on the whole area under the plough in the year. Finally, in 1878, complete elasticity was effected by the imposition of a uniform rate on the whole acreage under cultivation for more than two years, and a light rate on newly-broken up land. This rule was so simple, easily worked, popular, and beneficial both to Government and cultivators that, with suitable local modifications, it has since been introduced throughout the riverain alluvial tracts of the Dera-Ismail-Khan district, and of the Muzaffargarh, Mooltan, and Jhang districts as well. I served in the Bannu district from 1867 to 1878, and in the Dera-Ismail-Khan district from 1881 until November 1885. In both districts one of my duties was the supervision of the working of the fluctuating systems of assessment in force in them. I

Area over which it obtains. have thus long experience in what I have called the "annual simple rate

system." The area over which it now obtains is as follows:—

Name of district.	Name of river or tract.	Annual cultivated area in square miles in 1884-85.	Revenue in 1884-85.	REMARKS.
Bannu ...	Indus & Kurram.	118	Rs. 90,259	These figures are taken from the <i>Revenue Administration Report for 1884-85, Statement XB.</i>
D.-I.-Khan,	Indus & Daman tract.	545	2,61,287	
Montgomery,	Ravi ...	15	11,165	
Jhang ...	Chenab and Ravi.	12	7,449	
Mooltan ...	Ravi, Sutlej, & Chenab.	156	96,824	
Muzaffargarh,	Indus and Chenab.	235	1,64,085	
Total ...	...	1,081	6,31,069	

Several reasons render the working of such a system on more extended lines easier now than its predecessor was ten years ago. We have now for all districts excellent large-scale field-maps, which will do long service as the boundaries of fields are constant. Then, under the operation of the new rules for the collection and registering of agricultural statistics, the revenue staff—particularly the field portions of it—has been improved and strengthened, so that all work connected with those statistics is locally performed. Thus the "annual simple rate system" can be extended to all unprotected tracts without any occasion for a further increase of establishment, and the old

"fatal objection" to the introduction of any fluctuating method of collection is therefore removed. It does not matter whether the rates imposed be differential crop, village or circle rates, provided that they are so simple as to be understood by the people, in which case their manipulation by corrupt subordinate officials is an impossibility.

After working the system, and those from which it was evolved, in the Bannu district, for 10 years, over an area of 400 square miles, occupied by about 68,500 souls, all agriculturists and their dependents, and involving an annual revenue of about a lakh, I can only recall three cases in which fraud was perpetrated. In all three, it was easily detected on attestation, as it had been effected by the ticking off on the field register of cultivated fields as

Earnestly proposed for all rainless tracts.	fallow. I earnestly suggest the extension of the system to the tracts described in the tabular statement given
--	---

at page 108. As most of those areas are under settlements which will not expire for ten or more years, the fluctuating system I advocate can only be introduced upon re-settlement, or with the consent of the body of the revenue-payers in each village, or when suspensions, remissions or general impoverishment have practically effected a breach of the contract entered into at settlement between the village proprietary body on the one part and Government on the other, in which case the law permits the cancellation of the settlement. I do not think, were I District Officer, I should experience much difficulty in inducing a majority of the villages, in any of the tracts I have named, to apply for the "annual simple rate system" during the currency of a settlement. Being easily intelligible to the people, practicable and just to both Government and themselves, they could not fail to recognise that it meets the great *desideratum* of establishing a ratio between the

actual yield and the land revenue demand in each year. Now that Government has renounced the old shibboleth that good years must recoup the losses of bad, and acts on the principle that after bad seasons it is wiser to promptly grant suspensions and remissions, rather than by inaction to constrain the people to borrow at ruinous rates from village usurers, fixity of demand as a system no longer survives. As illustrative of this fact, I may

Enormous revenue balances in certain tracts prove that fixity of demand no longer survives as a system.

note that in the last *Punjab Administration Report* (that for 1884-85), the provincial land revenue balances are stated to amount to nearly a million

of rupees, of which eight-tenths are on account of outstandings in the south-east part of the Province. A possible

Possible arguments against extension of fluctuating system stated and answered.

argument against the reform. I proposed requires notice. Some will insist that the variations in the land revenue collections, consequent on the

extended introduction of fluctuating assessments, will upset budget calculations. The answer to such an unworthy plea for short-sighted extortion is, that the wideness of the area over which the proposed system will extend will, in all but famine years, secure reasonable fixity on the aggregate of the collections; and further, that the practice now obtaining of prompt and liberal suspensions—followed by remissions when necessary—must already be a more disturbing factor than any fluctuating system could be. Finally, if another argument is wanted, it should be sufficient to point out that even if the budget estimates be upset, such a dislocation is of no consequence compared with the supreme necessity of securing a contented and prosperous peasantry.

CHAPTER XII.

CIVIL JUSTICE FOR AGRICULTURISTS.

FOR the first 17 years of its existence as a British Province, what has been aptly called *The "patriarchal system" of administration.* "the patriarchal system" of administration obtained in the Punjab. Under it each District Officer was a little king within the limits of his jurisdiction, and was affectionately called by the people their "father and mother" (*ma-bap*). In order to temper his autocratic power and secure reasonable uniformity in the dispensation of civil justice, a collection of rules, which soon acquired the name of the "Punjab Civil Code," was prepared in 1853, under the auspices of the Lieutenant-Governor, and circulated as a manual for information and guidance. Being lucid, simple, and suited to the circumstances of the people, they soon acquired the force of law. In rural tracts they answered their purpose admirably. But in towns, as commerce expanded and business relationships became more complex, occasions arose when less individual latitude and more direction were required.

In 1866 a Chief Court was established in the Punjab, *Abolished in 1866 for that of laws and lawyers.* Act VIII of 1859, the Code of Civil Procedure of the Regulation Provinces, was extended to it, and pleaders were permitted to practise in its courts. Since that year the assimilation of the Punjab to the regulation pattern of law-ridden Provinces, like those of Lower Bengal and the N.-W. Provinces, has been forced on by the Legislative Department with hot-house celerity. "Justice, equity, and good

conscience," the old *desiderata* by which the soundness of a judgment was measured by an appellate court, are no longer guides to a right decision. Their place has been usurped by Regulations, Acts, Sections, Clauses, and the latest Rulings of that object of the poor man's dread and the District Officer's sarcasm—the Chief Court. In 1871-72 the dubious legality of the still un superseded rules of the "Punjab Civil Code" caused the then Legal Member of the Viceroy's Council (Mr., now Sir FitzJames Stephen) to amend and reduce those rules into the form of a single Bill, subsequently passed as the Punjab Laws Act, 1872.

When the Bill was before the Council, Sir George Campbell, then Lieutenant-Governor of Bengal, who had served for many years in the Punjab, and been one of the best exemplars of its patriarchal administrators, successfully moved an amendment, whereby a large measure of the simplicity, which characterized the old Punjab Civil Code, was secured.

In moving his amendment, Sir George made the following observations on the legal changes which had crept into the Punjab between 1852 and 1872. He said :—

* After a quarter of a century of British administration, the state of things was, he thought, such as to disappoint persons who were concerned in the administration of the Province in the early days when he had served there. The plan of administration then pursued had not only been modified, but he might say entirely reversed. The Punjab had come to be as law-ridden, as much ridden over by lawyers, he feared, as any part of British India. He had often expressed in this Council—perhaps it might have been thought in a somewhat jocular way—his abhorrence for the reign of lawyers ; but in doing so, he did not in any respect mean to give that opinion in the way of a joke, but in the most serious and sad manner. He did consider that the predominance of lawyers all over the country

* *Tupper's Punjab Customary Law*, Vol. I, page 129.

was a very serious and growing evil; and he wished to declare his opinion that if ever the country became too hot to hold us, it would be the lawyers that had done it. The Senior Judge of the Punjab, an English lawyer, who had, in comparatively recent years, gone to that Province was, he was told, strongly of opinion that the courts were becoming a burden and a disaster to the people of the Punjab. That being so, His Honor had looked to this Bill, in order to see whether its effect would be to give new force to this law-ridden, lawyer-ridden form of administration.

With respect to the part played by lawyers in suits in which agriculturists are concerned, I shall have some remarks to make hereafter. For the present, I call attention to the extract from Sir George Campbell's speech, as the sentiments therein enunciated are largely shared by most experienced district officers.

Lest it be denied that the Punjab is law-ridden, I may mention here that at the close of 1866, five Bengal Regulations and 77 Acts were in force in it, and that since that year to the end of 1882, the average annual outturn from the Legislative Mill of Acts applicable to the Punjab, has been seven. Between the beginning of 1878 and the end of 1882, fifty-two such Acts were passed, being at the rate of a fraction more than ten in each year. Although, however, about 200 Regulations and Acts, and an enormous number of rules framed by the Local Government under them, embody the law administration in the Punjab, acquaintance with 25 or 30 suffices for the ordinary daily requirements of Judicial and Executive Officers.

Out of that number of those dealing with the economic affairs of the every-day life of all classes, either the whole or the greater part of the two marginally named are totally incomprehensible to agriculturists, and only

Examples of over-legislation for agriculturists.

partially so to about 75 per cent. of the Judges who administer them and the practising lawyers who make their livelihood by misinterpreting their sections to litigants and Judges alike. The Indian Contract Act, 1872. provisions of one or other of those two Acts, as well as those of the complex Specific Relief Act, 1877. but, on the whole, useful "Indian Evidence Act, 1872," are constantly referred to, even in petty causes between agriculturists and money-lenders, by legal practitioners, by weak and timid Judges who seek to relieve themselves of responsibility by throwing the *onus* of an unintelligible decision on the law, and by those stronger Judges who care little for equity, provided they can dispose of a suit quickly, and exhibit legal acumen in their decisions.

In the Punjab the costly protraction of litigation and the generally unsatisfactory conclusion which the increasing burden of laws and lawyers are causing,* have induced on the part of Judges of robust independence, who prefer "justice, equity, and good conscience," to technicalities, an attitude of steady opposition almost amounting to revolt. Such men ride rough-shod over lawyers' quibbles, and decide their cases on the real merits in judgments remarkable for blunt common sense, and the omission of vexatious references to Acts, Sections or Rulings. Should their judgments reach the Chief Court on appeal or revision, that Court generally strives to uphold the lower Court's decision; but being bound to interpret the law as it is, and all freedom of reason being cramped by the arguments of watchful pleaders, it is often reduced to the necessity of justifying its

* See Appendix E, which gives some extracts from a paper by Mr. A. P. Howell, C. S., entitled *Legislation in India*, in the *Calcutta Review* of April 1886.

conclusions on legal grounds. In other words, the clear direction of the law has to be set aside by special pleading. It is not, however, on every occasion that the Chief Court allows its judgments and instructions to be governed by a healthy sympathy for what is reasonable or desirable. In the case of Barrister-Judges, who have themselves practised at the Bar, the instincts of the old Advocate sometimes operate to cause the evolution of subtle distinctions which, becoming rulings, are often productive of far-reaching consequences of evil.

To illustrate my meaning, I shall give three instances in which the over-technicality and refinement of the law, as now administered by the Chief Court, has caused widespread harm, and tended to bring the law and Chief Court into contempt. I shall then give two instances in illustration of my assertion that, in the interests of the public, the Chief Court readily evades bad provisions of the law by special pleading or otherwise, whenever it possibly can do so.

In 1884 a young Mahomedan lady was married to a suitable husband, also a Mahomedan. A few months afterwards she verted to Christianity, and refused to live with her husband. The subordinate courts decreed him what is called "restitution of conjugal rights," but the Chief Court ruled * that as by verting she had *de facto* apostatised and *quasi*-blasphemed the Prophet, she had therefore ceased to be a wife from the day she had changed her faith. Comment on the absurdity of such a decision is hardly needed, especially when it is remembered that the Prophet licensed the marriages of the faithful with Jews and Christians, and that under the Mahomedan law blasphemers were put to death by stoning. A second instance

"The law and the lady," or how to get rid of a husband.

* See No. 132, Civil, of the Punjab Record, 1884.

is the ruling,* in 1879, of the Chief Court, that amongst
 Sanctity of infant marriage: a *reductio ad absurdum*. Mahomedans infant marriage is binding until lawful divorce by the husband after attaining majority. Formerly the practice of the Province had been that until consummation the breach of a marriage contract entered into by guardians, entitled the aggrieved party to compensation only, as in case of a breach of betrothal. The practice had for many years given universal satisfaction. Since the new ruling universal discontent and social demoralisation prevail, and when courts are not strong enough to do right in defiance of the ruling, much confusion in family relationships occurs, as the following case will prove. About 15 years ago a male infant was "married" in Dera-Ismail-Khan to a girl some ten or twelve years older than himself. When the girl grew up she fell in love, and persuaded the boy's mother—who was his sole surviving guardian and had been a party to the marriage—to give her a divorce. The emancipated girl then married her lover, and had a family by him. In 1883 or 1884 the boy-husband sued for restitution of conjugal rights, on the ground that the divorce, having been given without his consent, was invalid. The claim was decreed. The boy then charged his legal wife's illegal husband with committing adultery, and sought also to imprison the woman, as she refused to live with him. Both charge and claims were legally sustainable, but the *reductio ad absurdum* his persistency had created was so monstrous that when the case came before me, I laughed the boy out of Court. My individual refusal to enforce the law, notwithstanding the effect of the Chief Court's ruling, is that the woman is her natural husband's mistress, he an adulterer, and their children bastards.

* See No. 157, Civil, of the Punjab Record, 1879.

The third illustration I take from a case which recently occurred at Rawalpindi, in which the Chief Court, on the revision side, quashed a decision arrived at after lengthy and costly proceedings, on the technical ground that as the officer giving the decision had signed himself "Magistrate of the District" instead of "Deputy Commissioner," he had acted *ultra vires*. The merits of the case were not touched upon by the Chief Court. The effect of the order has been, so far as the parties are concerned, to cause them a loss of several thousand rupees, to protract the case uselessly for some months, and, *quoad* the public, to give lawyers an opportunity for upsetting numerous decisions, otherwise legal, on the quibble that the presiding officer had misdescribed himself, or heard the suit on the revenue instead of on the civil side, or magisterially instead of as an Executive or Political Officer.*

And now to show that the Chief Court has human sympathies and readily evades the provisions of a bad law for the public benefit, when not constrained to interpret it technically by the irresistible logic of watchful counsel.

The law of contract introduced by us into India—following largely the Roman Law—was, and still is, very severe on the debtor. Attachment and sale of judgment-debtor's property. Until 1877 all the debtor's property was liable to attachment and sale. In that year an amended Code of Civil Procedure (Act X) was passed, and amongst other changes a few insignificant necessities were exempt-

* Query. Is an officer, whether Judge or not, bound to describe the official capacity in which he acts, as well as to sign his name? I know of no provision of law which so compels him; and if so, would not the tacking on to the signature a misdescription of office be mere surplusage?

ed. From the first a debtor has been, with certain restrictions, liable to a term of imprisonment at the instance of the decree-holder. The courts having no discretionary powers, have been, since 1866, merely instruments in the latter's hands. When, in the execution of a decree, the attachment and sale of hereditary or jointly-held arable land was applied for, the Collector was empowered to endeavour to avoid the necessity of public sale, by satisfying the decree-holder by a temporary alienation of the land. Strictly up to date the law enables the decree-holder to arrest and imprison his judgment-debtor, and sell him up. Notwithstanding this, the Chief Court, in 1877, took advantage of the sections in the Civil Procedure Code, which authorize the Collector to propose an arrangement by temporary alienations of land, and formulated rules * of such an obstructive character that since then the public sale of hereditary and jointly-held land in execution of a decree has almost ceased.

Collectors, sympathising with the agricultural classes, have been in the habit of reading between the lines of the Circular, and have so manipulated it that even when a sale-proposal statement has reached the Chief Court, some loop-hole has generally been given to the Judges for further deferring sanction. Thus the cost, delay, and personal worry to Bunniah-decree-holders have become so intolerable that proceedings to enforce the sale of land are seldom prosecuted by them to the bitter end. In proof of the fact, it is sufficient to mention that between 1880 and

Execution sales of land paying revenue to Government seldom sanctioned.	1884, only 273 such sales—being an average of 55, or under two for each district in the year—were sanctioned. It was impossible that such a state of things could continue
---	--

* Special rules contained in Judicial Circular No. XXV of Volume of Judicial Circulars, 1879.

for an indefinite period. Cases occurred in which decree-holders employing counsel insisted on and obtained their rights. The further separation of the Judicial from the Exécutive Departments effected in 1884, and the persistence of pleaders, have at last constrained the Chief Court to issue a Circular (No. V—924 of 13th March, 1886), under which, in future, the letter of the law must be obeyed, and civil courts, even though sympathetic with distressed agriculturists, will now have no option but to enforce an execution sale when decree-holders prove obdurate.

I now proceed to instance cases in which the Chief Court and Divisional Judges, directly or by connivance, strain the law by skilful special pleading in order to benefit agricultural debtors.

For many years, as I have already remarked, the whole of a debtor's property was liable to attachment and sale except contingent rights in satisfaction of a decree. Under Section 266 of the new Civil Procedure Code (Act XIV of 1882), his wearing apparel, implements of husbandry, plough and well-bullocks and house are exempted.* The object of the Section is clearly to leave to the judgment-debtor the means of subsistence. Looking to the spirit rather than to the letter of the law in some districts,† a practice has been allowed to grow up, under which, in addition to the articles specifically exempted, a portion of each crop, sufficient for the maintenance of the cultivator and his family until the next harvest, has also been treated as not liable to attachment and sale. Neither the Chief Court nor the Government,

* I draw attention to this as one instance of class legislation: an artisan's or village menial's house is not exempted.

† I believe they are Hazara and the four districts of the Derajat. Rawalpindi and Gujranwala have recently been added to the list. There are probably others.

though for over two years officially informed of the extended interpretation put on Section 266 of the Code, has yet interfered with that interpretation's operation ; and what is more curious, the rule, wherever locally introduced, has been accepted by money-lenders with little or no demur.

In truth, a study of the Civil Procedure Code of 1882 leaves the mind in a dilemma. On the one hand, it broadly declares that every man is liable for his debts, almost to his last asset, and that if he cannot pay them his creditor may arrest, imprison, and sell him up. On the other hand, it, by various enabling Sections, seeks to soften its own harshness. Thus, Section 210 declares that the liquidation of a debt may be decreed "by instalments with or without interest." Thus, too, the sale of land is entrénched behind so many delays, formalities, and incertitudes that, under the vigilant land conservation of the Chief Court and Divisional Judges, it was, until recently, practically unattainable when the decree-holder was a money-lender and the judgment-debtor an agriculturist. Although the Circular, to which I have already referred,* enjoins the observance of the letter of the law, it may be assumed that both the Judges of the Chief Court and Subordinate English Judges will tacitly combine, as heretofore, to mitigate the inelasticity of the law whenever possible. If then, as seems likely, certain enabling Sections were introduced into the Civil Procedure Code, with a view to indirectly encourage Judges to supersede the fundamental canon of the law of contract in respect of debt, that a man is liable in person and property to his last asset for his just debts, it is only natural that English Judges in India, in their sympathy for impoverished agricultural debtors, should endeavour to ignore that canon entirely.

Thus we find the Chief Court * enjoining civil courts to look behind the terms of an agreement, and to decree only reasonable interest † —whether the bond was registered or not—in cases in which it may appear that the “agreement has been entered into through fear or ignorance ;” and then we find it gravely ruled that *ignorance may be presumed from the bare fact that the borrower is an agriculturist and the lender a village money-lender.* ‡

Later still we find the decreeing of interest on sums decreed persistently deprecated.

Thus, in reviewing the administration of the Punjab for 1884-85, the Lieutenant-Governor goes so far as to remark:—

Steps have been taken to remove an erroneous but too general impression, that when a rate of interest has been fixed by the consent of the parties, the court is bound to decree accordingly.

* Judicial Circular No. XXIV of 1879.

† See Appendix F, in which part of a judgment by the Allahabad High Court is quoted, together with comments thereon by the *Pioneer*, in its issue of July 30th, 1886. Some remarks of mine are added, drawing attention to the moral conveyed by the judgment.

‡ Para. 104 of *Civil Administration Report*, 1883, is as follows:—

“The award of interest after decree has been discussed in the section which deals with disposal of suits. A more difficult matter to deal with is the award of interest in decrees, that is, in the sum substantively decreed. Instructions have been issued for the guidance of Judicial Officers in this matter in Judicial Circular No. XXIV, and in the case noted in the margin it was ruled that the absence of free consent on the part of the borrower might be presumed, under Section 114 of the Indian Evidence Act, from the bare facts of the borrower being a zemindar and the lender a village money-lender. It is to be feared, however, that civil courts are sometimes not as careful as they should be in dealing with claims which are largely, or sometimes even mostly, made up of interest. In cases in which a settlement is come to by the parties under Section 375 of the Civil Procedure Code, the courts are helpless, for they must pass a decree in accordance with the lawful agreement of the parties ; but in other cases the court can exercise its discretion ; and in such cases, even if the claim to interest is not specifically objected to, the court should act in the spirit of the instructions which have been above referred to, and the superior courts should make the most of such opportunities as are afforded them by appeals and inspection of records to see that they do so.”

Award of interest in decrees.

Punjab Record, Civil Judgment No. 110 of 1879.

Such rulings, instructions, and interpretations effectually encourage sympathetic civil courts,—*i. e.*, most of those presided over by Englishmen,—to treat a large part of the Indian Law of Contract as a dead letter in cases in which agriculturists are defendants.

A little examination will show to what a *reductio ad absurdum* the doctrine, that ignorance may be presumed from the bare fact that the borrower is a peasant and the lender a Bunniah, may be brought.

Doctrine of presumption of ignorance examined.

This doctrine was evolved in a Circular issued in 1879* in connection with a judgment, which is published in the Punjab Record of that year as No. 110 (Civil).

In that judgment SMYTH, J., ruled that, having regard to the fact that the bond was extortionate and unconscionable (*i. e.*, the interest was high), and considering the relations between the parties (*i. e.*, one obtained his living by cultivation the other by lending money), the Court was justified, in the absence of rebutting proof from plaintiff, in holding that the bond was executed under “undue influence,” and was therefore justified in treating the bond as void, and decreeing to plaintiff the amount equitably due—*i. e.*, the true principal and moderate interest thereon. PLOWDEN, J., held that the bare fact that parties to a contract were a village money-lender and zemindar, raised a *presumptio juris* that there was not free consent, unless that presumption was inconsistent with the other facts disclosed.

Now here we have the Chief Court of Justice in the Province, not merely adjudicating on defendant’s plea, but going out of its way to invent a plea (*i. e.*, of “undue influence”), of which defendant had never dreamt. There

Ruling of Chief Court equitable perhaps, but probably illegal.

* Judicial Circular No. XXIV.

is a story of a man, who employed counsel in a case, that after his counsel's speech he was observed to burst into tears. On being asked the reason, he said "until I heard my counsel to-day, I did not know how much wrong I had suffered." In the case under consideration, a kindly court has assumed the *rôle* of the counsel in the story.

But there is a more important point to be considered, *viz.*, the effects of "undue influence" on an agreement. For an agreement to be enforceable at law—*i. e.*, cognizable by the courts—it must be made with "free consent" of the parties. Where there is "undue influence" there cannot be free consent. Therefore, when there is "undue influence" the agreement, of which the bond is the outward and visible sign, is void. And yet the Chief Court tells us, as per Circular, that "it is beside our duty to set the agreement aside." That is, if we find that an agreement is void, it is beside our duty to set it aside, but we must award the principal mentioned in it and reasonable interest. Again, "coercion" stands on precisely the same footing as "undue influence" in the Contract Act. If the courts apply this wonderful new doctrine to cases of coercion, we shall have some ruling like this. *A* forces *B* to execute a bond by putting a pistol to his head: it is beside the duty of the court to set the agreement aside; any principal mentioned in the bond with reasonable interest must be awarded to *A*. I have said that an agreement brought about by "undue influence" is void, and this seems to be the meaning of SMYTH, J., when he says "the bond is void." I have endeavoured to show by argument above that such an agreement is void. But in Section 19, Indian Contract Act, it is laid down that "when consent to an agreement is caused by 'undue influence,' the contract is voidable at the option of the party whose consent was so caused." If

then, at the time the peasant's case came before the Chief Court, the contract was voidable at the defendant's option, and he voided it, he had, under Section 64, Indian Contract Act, only to restore the benefits which he had actually received, consequently he should not have been compelled to pay any interest, but should himself have been entitled to damages under Section 75. So that if the contract was *voidable*, the Chief Court ought only to have dismissed the case on the bond, leaving the Bunniah to bring another action, if he pleased, for money advanced under an agreement discovered to be void under Section 65, Indian Contract Act.

It will be seen that in the Chief Court's judgment the
 Meaning of ignorance examined. Judges do not allude to the ignorance of the zemindar as they do in the Circular. But what does this ignorance mean? Obviously that the intellect of a peasant is not adequate to allow him to form any reasonable opinion as to how the contract will affect his interests. That is, the courts are to presume that peasants are of unsound mind until the contrary is proved!

What the Indian Legislature did, was to transplant the English Contract Act (and in England I need hardly say people are presumed to be sane) to India with some 30 differences of detail, and require the courts to administer it. What the Chief Court of the Punjab has done, is to instruct the courts to do so on the presumption that peasants, when dealing with Bunniahs, are insane!

Now, let us glance at the figures exhibiting the admin-
 Work done by munsifs. istration of civil justice in the Punjab in 1884—the last year for which figures are obtainable. In that year 2,71,375 original suits, being one to every 21 families of five persons, were decided by courts. Europeans only disposed of 4 per cent. of the

whole number: 39 per cent., or 1,03,101, were claims for money brought by money-lenders against agriculturists. The 84 munsifs of the Province, before whom most of those claims were heard, disposed of 1,71,651, or over 63 per cent. of the whole number of civil suits decided in the year. Those "munshifs," I must explain, are a peculiar body, only hear what are called "small cause" cases, and compose the agency by which 71 per cent. of the money-claims of all sorts were decided. They are largely recruited from the Bunniah class, and are mostly men of town extraction and of good education. As a body, they are ignorant of rural affairs, have no sympathy with agriculturists, and do not thoroughly understand their patois. Of suits decided by them, only 28 per cent. were so on their merits, the remaining 72 per cent. being disposed of by compromise, confession, withdrawal, or by dismissal for default.

As regards execution of decrees, 31 per cent. were executed completely, 25 per cent. partially, and 43 per cent. were wholly in-
 Enormous costliness of petty litigation : execution, realisations, and costs, about equal. fructuous. In other words, in 67 per cent. of the cases in which the plaintiff won his cause, he obtained either little or no satisfaction because the judgment-debtor was insolvent. Put in another form, only 28 per cent. of the money-value of decrees was realized. Of suits for money or moveable property, 88 per cent. were for sums not exceeding Rs. 100. This class made up 73 per cent. of the whole litigation of the Province. Statutory costs fell at an average of 11 per cent. on the suit-valuation ; but such costs barely represent half of the expenses really incurred.*

* Statutory costs include the judicial stamp on plaint, process-fees, pleaders' fees at a recognised scale, and diet-money for witnesses, but exclude travelling expenses of parties between home and court, board and lodging at place where court sits, cost of drawing up and writing plaint and numerous petitions and applications, the difference between percentage on value of suit allowed to pleader and sum actually paid, and a great many miscellaneous incidental expenses besides.

The ratio of costs progresses inversely to the valuation. Thus in suits for Rs. 50 and under, which represented 59 per cent. of the whole litigation of the Province, costs, taxable and untaxable, ranged from about 25 to 60 per cent. The above figures prominently show the enormous costliness of litigation compared with results obtained from it, the petty character of that litigation, the insolvency of a majority of the judgment-debtors, and the immense power over agriculturists exercised by munsifs. With respect to this class of Civil Judge, it is curious to note how the establishment of a munsif's court in any township or large village immediately creates or stimulates litigation, and that the chief function performed by this class of Judge is to terrorize defendants into coming to terms with their Bunniah-plaintiffs. Thus, out of 1,71,651 suits decided by munsifs in 1884, in only 48,177, or 28 per cent., were judgments delivered after contest.

Duly weighing the above figures and considerations, —particularly noting that only Rs. 35,27,966, or 28 per cent. of the value in money of decrees, were realized on execution, and that such a figure represents a sum just roundly equal to the costs and expenses of the litigants and no more,—it is impossible to avoid the conclusion that the existing system of civil justice, *quoad* petty causes for money or moveables between agriculturists and Bunniahs, is in a very unsatisfactory and unwholesome state, being too costly, too elaborate, too technical, and, above all, in a majority of cases effecting little result beyond the probable impoverishment of one party and the certain exasperation and demoralisation of both. I am convinced that were the cognizance of disputes of the above kind

Should payment of petty debts by agriculturists be a moral obligation only?

throughout the tracts in which the agriculturists are still homogeneous and primitive, entirely withdrawn from the civil courts, borrowing and lending classes would agree better together, and the general social tone of both would be improved. I am only deterred from proposing that the payment of small obligations by agriculturists to Bunniahs, in tracts like Marwat and Bhangikhel, in the Bannu district, and parts of Dera-Ghazi-Khan, and of Jhang and Montgomery, should be a moral obligation, and nothing more, by the conviction of the hopelessness of such a proposal.

Now to pass on to the effect of legal practitioners on Pleaders and their litigation. Their increasing numbers uses. attracted the attention of the Lieutenant-Governor in 1883. In reviewing the administration of his Province for 1882-83, he regretfully recorded:—

The number of pleaders is annually increasing, and few cases reach the higher appellate court without the entertainment of advocates, however small the value of the subject-matter may be. Whether, in the present state of the Province, it is an unmixed benefit to the people, to be able to avail themselves so freely of professional assistance in the prosecution of their claims, may be matter for consideration.

When these words were written, the number of legal practitioners in the Punjab was 149. Since then—*i. e.*, between the beginning of 1883 and end of April, 1886, *the number has more than doubled*, there being on the latter date 396. The annual rate of increase for the future will not be under 50. In the first four months of the current year, no fewer than 49 new pleaders and mukhtars were admitted and enrolled. Of the 396 practising in the Province on 1st May last, 308 were men of inferior qualifications, being pleaders and mukhtars of the second grade. At a

low computation* the gross annual earnings of the Bar are about 22 lakhs, almost all of which money comes out of

Class.	Number.	Annual receipts per head.	Total receipts of class.
		Rs.	Rs.
Advocates	21	14,000	2,94,000
1st grade pleaders,	52	12,000	6,24,000
2nd grade pleaders,	175	6,000	10,50,000
1st grade mukhtars,	15	5,000	75,000
2nd grade mukhtars,	133	1,200	1,59,600
Total ...	396	38,200	22,02,600

the pockets of litigants. Of practising lawyers, only 21 advocates and perhaps half of the pleaders and mukhtars of the first grade, received legal educations. All the others have become

lawyers under the stress of circumstances, the large majority being failures in, or having failed to obtain Government service. In a lengthy or intricate case a good pleader is undoubtedly of great assistance both to his client and to the Judge who hears the cause; but an indifferent one is a nuisance to both. Those inferior practitioners who take up petty cases and appear in munsifs' courts, are generally unscrupulous pretenders, who prey on the ignorance of their clients. As a rule, a poor man has no wish to engage the services of a pleader or mukhtar unless his opponent first does so, in which case he thinks it necessary to do the same.

Petition-writers playing into the hands of their friends or patrons and cutcherry-touts often induce simpletons—

* In a criminal case tried by the District Judge of Rawalpindi in June, 1886, the prosecution and defence cost complainant and accused over Rs. 8,000. The examination and cross-examination of a native expert cost Rs. 1,200. All this money went into the pockets of several Barrister-pleaders in a trial which lasted about six days. As a rule, pleaders fight shy of criminal trials.

and most agriculturists when litigating are simpletons—to engage pleaders, believing that by so doing they must win. I shall refer to this subject again. For the present I draw attention to the annually increasing number of low class legal practitioners in the Punjab, a large proportion of whom are legal impostors, who live on the credulity of foolish litigants, and impede, rather than help, justice.

To have to enter a court as a principal in a civil case is a real misfortune for a Punjab peasant. It is an education in evil to him. However honest and unsophisticated he may have been when he first approached the contaminating atmosphere of the district cutcherry or munsif's court, by the time the case is over, he has eaten of the tree of knowledge ; he is a fallen man. When he reaches the compound, his bewildered senses are made more confused by the perversions his simple plaint or reply undergo when reduced to writing by a petition-writer, who either personally instructs him what he is to say and how he is to prove it in court, or allows him to be taken possession of by a cutcherry-tout. This class of practitioner does business on his own account by coaching witnesses or explaining "the law" to litigants, or acts as a jackal for inferior pleaders and mukhtars. The peasantry have full antecedent faith in the justice administered by Englishmen, but none at all in that of munsifs, or, in fact, of any native Judges. In rare cases they acquire faith in individual natives, but only after a long experience of them. So convinced are agriculturists that with munsifs law and justice are incompatible, that a large proportion of the exaggerated claims brought by Bunniahs against them are not disputed. Only 28 per cent. of the suits heard by munsifs are contested. *Pothi, gawah, digri*, represents, as stated once already, the peasant's idea of logical sequence in a munsif's court,—“a bond, a witness, a decree.”

Munsifs are not to be blamed for pocketing whatever consciences they may have, and aiming at quantity rather than quality. Each munsif has one clerk on Rs. 20 a month, and is required to decide 170 civil suits per mensem and 130 execution and miscellaneous cases. The average number of working days in a month is 20 ; * hence a munsif has daily to dispose of nine civil suits and five miscellaneous cases. He has also to keep up 22 registers, and submit numerous returns.

Since 1868 the registration of bonds has been optional, hence few bonds are now registered. Their registration used to be a protection to the debtor, but was, in fact, no complete security, as the consideration, though stated in the deed to have been received, was frequently paid—if at all—afterwards. Since the registration of bonds for more than Rs. 50 ceased to be compulsory, the manufacture of false bonds has gradually become a profession. In every district Cis-Indus the trade flourishes. It is a matter of daily occurrence for a frightened peasant to give in petitions to the effect that such and such an one has forged a bond against him. It must not be supposed that Bunniahs enjoy a monopoly of the various means by which

* The deductions are usually—

Working days in a year.	52	Sundays.	
	17	Mahomedan holidays.	
	21	Hindu	„
	11	Christian	„
	17	Local and conditional holidays.	
	10	Days for indisposition, casual leave, &c.	
	128		

Thus, $365 - 128 = 237 \div 12 = 20$ working days in the month.

our legal system helps an unscrupulous man to plunder or cheat his neighbours. One case in court teaches a peasant how to meet lying with lying and forgery with forgery. How to procure a false receipt and to assume an air of stolid ignorance, and deny everything, are arts easily acquired.

As an instance of the brazen effrontery with which
 Instance of the way
 in which a false bond
 is prepared. forgery is carried on, I may mention
 a case which occurred in May last at
 Rawalpindi. An Assistant, just arrived
 from England, happened to return to office after breakfast, and surprised several natives having an altercation in the verandah of his court-room. Being young and still curious, he had the disputants at once brought into his room, and having taken down their statements, made a report to me, his Deputy Commissioner. I tried the case. It was as follows:—A Bunniah had come up to a petition-writer (fortunately a newly-appointed man) with a peasant, and after a feigned dispute as to terms, the latter executed a bond to the former in a false name. The petition-writer then told the debtor and creditor to bring two witnesses to attest the bond. No professionals being at hand, the Bunniah offered to pay for the writing of the bond, and said he would get it witnessed in the city. To his surprise the petition-writer refused. Recriminations ensued, during which the writer put the bond in his pocket, and the Bunniah attempted to wrest it from him. Just then the Assistant Commissioner came up and recorded the statements of the principal actors before time for concocting a story, or arranging a compromise, was given. In the bond an account-debt was referred to. The number of the page in which the account was to be written (for none existed) was left blank. As to the peasant who personated a man whom he did not even know, he had played his

part for a wage of two rupees. He was a man who had a knowledge of the ways of courts, having been once a party to a case himself. He had come to the cutcherry to make a complaint, and wanting money for the purpose, was a willing tool in the hands of the wily Bunniah. Hundreds of such bonds are annually executed in every district in the Punjab, are attested by hired witnesses, and supported by book entries in the loose accounts village Bunniahs habitually keep.

In truth, the whole sketch I have drawn of what constitutes civil justice in the Punjab, is not edifying. On the one hand, the Legislative Mill is turning out complicated Acts on English models, which elaborately regulate the simple disputes incidental to rural life, whilst an annually increasing host of hungry pleaders is on the watch to manipulate the law to the protraction of justice and their own benefit. Native Judges, perplexed and amazed at the ever-rising flood of Acts, Rules, Rulings, and suits instituted, in fear of the Chief Court's constant exactions in the form of registers, returns, and outturn of work, and of their immediate Appellate Court's caustic criticisms on the quality of that work, sit in despair and shuffle through their daily task perfunctorily like over-worked slaves. On the other hand, we have a body of English Judges, some bluntly common-sensible, others acutely subtle in the law, and both sympathising with the duped simpletons who throng their courts. Those English Judges strive to counteract the evils of too much law, too much litigation, and too many lawyers, by upsetting unjust decisions, cutting down interest, reducing costs, and prosecuting suspected forgers and false witnesses.

Between the law-practising lawyers, Chief Court, and Divisional and District Judges, the multitude of native

courts of first instance fare badly. Their sympathies, if any, lie with rich suitors. Their one aim is to dispose of cases with the minimum of personal inconvenience compatible with retention of appointment or claim to promotion. And if so, is there reason for surprise that the poor struggling cultivator of the soil—that *corpus vile* on which our legal experts so light-heartedly experimentalise—is circumvented by the wily Bunniah?

CHAPTER XIII.

REFORMS IN CIVIL LAW AND PROCEDURE.

3.—*Civil Law and Procedure.* 4.—*Specific Miscellaneous Reforms.*

CIVIL law reform is such a wide subject that it is impossible in a few pages to do more than suggest a few specific changes, and indicate generally the lines which, in my opinion, should be followed in simplifying procedure, and in securing that the decision of causes shall be on their merits rather than on technical grounds.

In an able paper* on the subject, written in 1879, Native views on civil law reforms. Colonel Wace, now Junior Financial Commissioner of the Punjab, fairly represented native views on the shortcomings of our administration of civil justice in the following passage:—

Native opinion condemns most thoroughly the great power which our law gives to a creditor over his debtor, and the blind way in which we enforce rates of interest that are obviously destructive of the debtor's prosperity. Besides the instance † referred to at the end of the previous paragraph, an agriculturist is liable to be summoned at the caprice of his creditor at all seasons of the year,—sowing time, harvest time, or any other time. No matter how necessary his presence on his land, the summons is issued, and must be obeyed, under risk of heavy penalties if neglected; the summons often involving a journey of 20 miles and back, or several such journeys, according to the number of hearings necessary to the decision of the case. Again, when a decree has been passed, it is not the business of the court to provide any reasonable method of satisfaction; the law allows the creditor to settle that, and the time when he will enforce it, for the most part with sole regard to his own interests.

* Settlement Commissioner's No. 1009, dated 5th September, 1879, to Secretary to Government, Punjab.

† "For instance, a munsif can attach the whole crop; and if the cultivator pleads that the law consequently leaves his family without any food for the next month, and also compels him to defraud the State of its share, the munsif can only reply that this is not his concern; that his duty is confined to administering the civil law."

And finally, we have instituted a system of bonds, registration, and balancing of accounts at short intervals, which was unknown in the country before our rule, and the practical result of which is to discharge our Civil Judges from the duty of considering the merits of the debts claimed before them; and we enforce contracts for the payment of interest, which are oppressive to debtors, and frequently ruin them, and which lack any sufficient justification as necessary to the prosperity of the creditor.

Native tradition and their conceptions of justice, are strongly opposed to all these features in our civil law. According to their view, civil causes against agriculturists should be decided as much as possible in the immediate vicinity of the village where the parties reside. In deciding the amount of debt that is due, the Judge should be bound by no devices of bonds, registration, periodical balances and agreements (in truth, entirely one-sided), to pay extravagant rates of interest, but should ascertain what is really due, and adding a liberal allowance for interest—(their ideas as to what is a fair rate of interest are much more liberal than our own)—forthwith settle between debtor and creditor a reasonable arrangement for the payment of the debt. In so far as such an arrangement may assign to the creditor a share in his crops, native opinion expects that provision should be made first for the payment of the rent or revenue, and that of the balance a fair allowance, not exceeding, nor usually less than a moiety, should be left for the agriculturist's support. The spectacle of the unnecessary and profitless imprisonment of an agriculturist, merely to enforce payment of a debt, is condemned by them as both cruel and wasteful. Obviously, it either incapacitates him for paying, or throws him into worse debt. While the spectacle of the attachment and sale of an agriculturist's crop, without sparing him food wherewith to live or to feed his cattle till the next harvest ripens, is one against which their feelings of justice and mercy alike rebel.

The employment of pleaders and barristers in petty agricultural causes is equally condemned by native opinion. The native view is, that the matters at issue are extremely simple, that the employment of such an agency unnecessarily adds to the cost of the litigation,—an addition which, in most instances, the parties can very ill afford,—and that the lower classes of legal practitioners are usually men of bad motives, who foment more litigation than they cure. These assertions are unquestionably true. It is, moreover, also true that for centuries prior to our rule the community have

found it practicable to adjust their disputes without the intervention of any legal practitioners ; and all the better men among them regard with regret the complication of their dealings with Government by an agency of this nature.

Reforms should, I conceive, be directed towards protecting the weak and ignorant many against the more intelligent few who take advantage of their weakness and ignorance. Each dispute therefore should be decided on its real merits on equitable grounds, and when a decree is given against an agriculturist, it should be executed at a time and in a manner which shall least interfere with the debtor's obligations to the State and to his family. In both of these respects the Civil Procedure Code fails, because its provisions are based on the erroneous assumption that litigants know the law, that Judges do their best to administer it equitably, and that decree-holders execute their decrees considerately. The facts are the reverse. Rural litigants, whether agricultural or industrial, are ignorant simpletons : civil courts mostly seek only clear files—which compliance with the letter of the law gives at little personal labour—and decree-holders naturally consider nothing but the full and speedy execution of their decrees.

The Civil Procedure Code assumes knowledge where none exists, enables Judges to dispose of from 5 to 10 cases daily in a sitting of five or six hours, and deliberately makes the court the blind instrument of the decree-holder. Thus the permissive "may" in Sections 118 and 155 enables courts, when so disposed, to ignore equity ; whilst, on the other hand, the absolute "shall"* of the sections enumerated in the foot-note, sometimes compels them to do positive injustice.

Effect of "may" and "shall" in certain sections.

* Sections 102, 138, 139, 258, 371, 443, 508, 509, 522.

The law should compel courts to examine the plaintiff before summoning the defendant, and on his appearance when summoned, to ascertain the real issues by the oral examination of the parties in each other's presence. Further, each case should be decided on its merits: no compromise or confession of judgment being accepted until the court has satisfied itself that both parties understood the consequences of their action, and that such action was fair and reasonable. In debt cases the court should be compelled to separate the original principal from the interest—bond or book entries notwithstanding—and to decree only principal and reasonable interest. Then all the elaborate procedure which requires a written amendment of the plaint to enable the court to go beyond it, and restricts inquiry and judgment to the actual claim as drawn up by a careless petition-writer, should be swept away, and full latitude be given to the court to decide any case according to "equity, justice, and good conscience."

Resort to arbitration should be encouraged by a revival of the former authority possessed by the courts of modifying an award. As the law stands, arbitration is rendered either impossible or unsatisfactory by the compulsion the court is under Section 522 to decree in accordance with the award.* Moreover, the procedure necessary to validate an award is so elaborate that the whole proceedings are frequently quashed on appeal, because some technicality in the of reference or of drawing up of the award was omitted.

In its decree the court should be required to state the manner in which, with reference to the judgment-debtor's status, it recommends that the decree be executed. Moreover, upon

What the law should compel or permit courts to do.

Power to modify an award by arbitration should be restored to courts.

Decrees and their execution.

* See page 77.

execution, a large latitude should be allowed to the court as to time and terms of execution, and the court should be compelled, when satisfied of the honest inability of the debtor to liquidate his debt and of the improbability of his circumstances improving within a reasonable time, to recommend his discharge to the District Judge, * who should be authorized to grant it. Further, as to time, the law should protect agriculturists from being summoned to court during the fifteen or twenty days in the year when their presence is necessary in the field at the crisis of the reaping operations. The season for sowing is more prolonged, hence no similar protection is necessary during it. As to terms when grain or cattle, or any property the market value of which is liable to great fluctuations from calamity of the season, has been attached, the court should be empowered to impose a fair valuation, and make the property over to the decree-holder at that valuation. As the law stands, such property is auctioned at any time the decree-holder may elect, with the result that it is generally knocked down at less than half its value. I need hardly add that in seasons of drought there is no market for cattle, and that cattle and stored grain are the sole wealth and means of subsistence of an agriculturist and his family.*

4.—*Specific Miscellaneous Reforms.*

Owing to the bigness of the subject and the necessity of curtailing space, I have so far only
Specific reforms. indicated the direction in which the amendment of the Civil Procedure Code seems advisable. There are, however, various specific reforms, in favour of

* This involves a consideration of the question of an amended Insolvency Law for rural India. Chapter XX, Sections 344-360 of the Civil Procedure Code, contains the existing law on the subject. I made suggestions in favor of certain changes in the law in 1884, which will be found in Appendix G, together with a note now added.

which overwhelming arguments can, I think, be condensed into a few lines or a page. I proceed to state them in the following order :—

- (1). *Exemption of all necessities from attachment and sale in execution of a decree.*
- (2). *Exemption from imprisonment for debt of honest insolvents.*
- (3). *Extension of the period of limitation.*
- (4). *The keeping of accounts in a business-like manner.*
- (5). *Extension of compulsory registration of bonds over Rs. 49.*
- (6). *Exclusion of legal practitioners from the courts of munsifs and tahsildars.*

(1).—*Exemption of all necessities from attachment and sale in execution of a decree.*

In Section 266, Civil Procedure Code, all property is declared liable to attachment and sale in execution of a decree except wearing apparel, tools of artisans, implements of husbandry, necessary plough and well-cattle, and the houses of agriculturists. The intention of the Section is to save judgment-debtors and their families from starvation by reserving for their use the means by which they gain a livelihood. In the case of agriculturists, the law, as it stands, is a snare and delusion. To leave cultivators their plough cattle, but deprive both of grain and straw requisite to keep them alive until the next harvest, is a cruel mockery. In every case a share of the crop, equal to that retained by a tenant-at-will in tracts where competitive rents obtain, should be exempted. In the Kāpurthalla State* since 1879, in the case of owners and tenants paying revenue or rent in cash, two-thirds of the grain and one-third of the straw can be

* See Appendix H for the detailed rules.

attached in execution of decree, provided that the decree-holder first pays into court the whole of the revenue or rent-charges on the crop. In the case of tenants paying rent in kind, half of the tenant's share of the grain is reserved for his use.

If the execution files of any munsif's court be examined, it will be seen with what brutal callousness the straveling bailiff* attaches a cultivator's grain-safe, grain, beds, spinning-wheel, cooking vessels, and other insignificant necessities not specially excepted by Section 266 of the Code. In a large proportion of the decrees returned as "partially executed," the amounts realised by the sale of the household articles seized is only a few rupees, and barely covers the costs incurred. In the interests of justice and mercy, the law requires immediate amendment, so that all the necessities, without which the judgment-debtor cannot tide over the next few months, be included in the list of "particulars," which are not liable to attachment and sale.†

(2).—*Exemption from imprisonment for debt of honest insolvents.*

Under Sections 336-358 of the Civil Procedure Code, Imprisonment for a judgment-debtor. may be arrested and imprisoned for a period of six weeks if the debt do not exceed Rs. 50, and for six months if over that sum. The judgment-debtor may apply to be declared an insolvent, and on being so declared, is discharged,

* He receives Rs. 5 or Rs. 6 a month—less than a coolie's wage—according to the grade he is in. The appointment is much sought after.

† Section 79 of the Punjab Land Revenue Bill, now before the Council, extends the exemptions recommended here to the case of a revenue-defaulter. If this Section becomes law, similar exemptions must be conceded to the judgment-debtor. Government has a first claim on the produce for its land revenue. If then the first claimant cannot attach a certain reasonable portion of a crop, inferior claimants must be treated in the same way also.

but his property remains liable to attachment and sale until one-third of his scheduled debts, if they do not exceed Rs. 200, are paid, or until the expiry of 12 years from the date of his discharge. Practically, insolvency is never sought, chiefly because of the severity of the law,* and perhaps also because the procedure being long and troublesome, the courts seldom apprise judgment-debtors of the provisions of the law.

The following table exhibits some particulars regarding the number of persons arrested and imprisoned in the Punjab in execution of decrees during the last five years :—

Year.	Number arrested.	Number imprisoned.	Percentage imprisoned to arrested.	REMARKS.
1880	10,772	990	9	Thus in 89 per cent. of cases the threat of imprisonment implied by arrest sufficed to constrain debtor to come to terms with his creditor.
1881	7,090	948	13	
1882	9,011	989	11	
1883	9,691	1,167	12	
1884	8,310	1,033	12	
Total...	44,874	5,127	11	

In most civilized countries the imprisonment of honest debtors is no longer legal. Whether similar enfranchisement shall be extended only to the N.-W. Provinces or to the whole of India, is now before the Council.† The question will probably be decided before these pages are printed. The great argument against the abolition of imprisonment

* See Appendix G.

† See "The Debtors Bill" now being circulated. Section 4 (d) enables a court to imprison a defaulter when satisfied he can pay, but does not.

for debt—except in the case of fraudulent debtors—is that without it arrest would lose its terrors.

In mountain warfare against undisciplined men shells do little harm. But their “moral effect” is tremendous, because they occasionally commit great havoc. Were it known that the shells never exploded, they would be little feared. Similarly, were it known that arrest would not be followed by imprisonment, the “moral effect” of arrest would be nothing. On the whole, I think, the only change in the existing law of arrest and imprisonment which is necessary is, that imprisonment should only be enforceable provided that the court is satisfied that the debtor has the ability to pay the decree, but does not do so. If not so satisfied, the court should be required to discharge the debtor. I am aware that Section 21 of the Deccan Ryots Relief Act, 1879, curtly declares “no agriculturist shall be arrested or imprisoned in execution of a decree for money.” After much consideration and consultation with natives of all classes on the effect of such a law in the Punjab, I deliberately hold that the power to imprison must be retained—safe-guarded in the way I propose—because of its coercive force. To the above extent the question of imprisonment should, I think, be left to the discretion of the court.*

(3).—*Extension of the period of limitation.*

At page 74 I have shown how the period has been gradually reduced from 12 years to what it has been since 1877, *viz.*, three years for unsecured debts and six years for debts

* The law, as it stands, is brutal. Inspecting the Mansehra tehsil, Hazara district, to-day, 12th August, 1886, I found a miserable looking Mahomedan cultivator in the lock-up—the only occupant. A Hindu creditor had obtained a decree of Rs. 10 against him, and had kept him in solitary imprisonment for over a month, spending Rs. 4-8 in order to satisfy his spite. I released the man, though it was illegal to do so until six weeks' imprisonment had expired.

secured by registered bonds. The Limitation Act, XV of 1877, is an instance of over-refinement in legislation—no one without referring to it knows what the period is for more than half-a-dozen descriptions of suit. The periods are graduated with absurd minuteness from days and months to one, two, three, six, twelve, thirty, and sixty years. If the 180 articles of the Act could be reduced to a dozen, both the public and the courts would feel satisfied. Were the period for money claims, secured and unsecured, made six years, or even twelve, debtors would have a longer term wherein to arrange their liabilities, would not be forced—failing renewal of their bonds—into court every third year as at present, and both lending and—what is of cogent importance—borrowing classes would approve of the change. When the Deccan Ryots Relief Bill was before the Council in 1879, the question of extending the period of limitation was discussed, and the evidence collected proved “there was a general consensus of native opinion that the reduction of the period operated very prejudicially to the interests of the cultivator.” Accordingly, the Act raised the period for agriculturists to twelve years for debts on registered bonds and six years in other cases (Section 72). Were the law similarly altered for the whole of India, general relief would be felt. The argument that the longer the period the greater the encouragement to improvident borrowing fails because it is open to the creditor to sue whenever he likes within the period. Moreover, as a matter of fact, under the Government which preceded ours, there was no Limitation Law, and yet reckless borrowing was unknown. The same is the case in most Native States to this day. Further allowance must be made for the prudential restraint which contraction of credit will impose on money-lenders and village shop-keepers.

Should all necessities be exempted from attachment and sale, and any or all the other reforms advocated in these pages become law, existing inducements to improvidence will be effectually closed.

(4).—*The keeping of accounts in a business-like manner.*

Accounts. The village Bunniah keeps his accounts in a Hindi character only intelligible to men of his own class in his own immediate neighbourhood. The accounts are roughly jotted down in books, or on sheets loosely stitched together. No endeavour is made at close writing, hence interpolation is easy. The very pages are seldom numbered. Correctly each constituent's transactions ought to be recorded in three books, namely, the *roznamcha* or *sur bahi*, equivalent to our day-book, in which each day's transactions are recorded in order as they occur; the *khata bahi* or ledger, in which each constituent's personal account is similarly entered under his name; and the *rokar bahi* or cash balance account, in which the nett results of debits and credits are daily or periodically exhibited. In practice, few petty village traders, until they emerge from that status into the superior position of banker, keep more than the first two account-books, and keep them in such a slovenly way that their correct interpretation, even when translated, is more or less a matter of guess-work. No periodical audit and balancing is attempted. The account runs on from month to month and year to year, interest being added and merged into principal from time to time, and a bond executed whenever the period of limitation draws near. In order to create business habits and protect debtors, traders and money-lenders should be required by law to maintain all the three account-books regularly, and the way to effect this would be to declare that accounts

otherwise kept should not be admitted as evidence of the transaction to which they relate. Unregistered instruments, where registration is compulsory, are not admissible as evidence. *À fortiori* accounts kept in an unbusiness-like manner should not be so either.* The protection of simpletons is equally the duty of the State in both cases. In furtherance of the above objects, cheap forms of blank account-books, with each page consecutively numbered, and the total number of pages stated at the beginning and end of the book, should be prepared by Government agency, and sold by all stamp-vendors and petition-writers at cost price.

To attempt anything more than I have here proposed would be a mistake. It would be useless to require receivers to give written receipts for every payment or pass-books to their agricultural constituents, because such a provision of law would not be carried into practice. Chapter IX of the Deccan Ryots Act entitles agriculturists to written receipts for each payment, whether they "demand the same or not," to annual statements of accounts, and to have them made up from time to time in a pass-book. Should the creditors neglect or refuse to do what the law requires of them, they are liable to fine. The law has here demanded too much, and consequently it is a dead letter.

(5).—*Extension of compulsory registration to bonds over Rs. 49.*

The law is contained in Act III of 1877. Briefly put,
 it makes the registration of instruments
 affecting immoveable property, worth
 Rs. 100 and upwards, compulsory, and leaves that of most

* In 1858-59 the maintenance of a day-book as well as a ledger was made obligatory in the Punjab, and models of such books were circulated. The scheme was admittedly tentative.—*Punjab Report for 1858-59*, p. 2.

others optional. Further, it provides that in the former case, when the law has not been complied with, unregistered documents shall not be received as evidence, and that registered documents shall take effect against unregistered and, *a fortiori*, against oral agreements. Notwithstanding the superiority of registered over unregistered documents, the number of the former, in cases in which option is permitted, has been steadily decreasing of late years, so much so that in 1884-85, the last year for which returns have been published, 11,305 optional documents relating to immoveable property, and only 3,611 concerning money obligations, were registered. Thus, it may be said that bonds for small amounts are practically not registered at all in the Punjab. We have seen at page 136 how easily bonds are forged, and the transactions described in them supported by false entries in account-books and other corroborative evidence. I think, and I believe, that most officers of district experience will agree with me that compulsory registration should be extended to all bonds over Rs. 49, and that registering officers should be compelled to record particulars as to the state of the account between the parties, and of the nature and mode of payment of the consideration. Were the law so amended, both the people of the Punjab and our civil courts would experience great relief. Such a change would only be a reversion to the rule* which obtained in the Punjab from 1859 until the beginning of 1868, when the Registration Act XX of 1866 was extended to it. From that time the registration of all bonds has been, as now, optional.

Most registrars content themselves by having the instrument read over before the executants and their witnesses, and by receiving an affirmative answer to the stock-

* See Judicial Circular No. 29 of 1859 ; also No. 68 of 1860 ; and foot note at page 15 of Rivaz's Registration Act III of 1877.

question whether or not the consideration has been received. A short oral examination would frequently disclose that the bond either does not contain a true recital of the transaction therein described, or omits the mention of important particulars,—*e. g.*, the fact that the consideration or part of it has not yet been paid, or that a separate account is still running on. The necessity of better protecting agriculturists by the extension of compulsory registration is recognised in the Deccan Ryots Act, Chapter VIII of which provides for the appointment of village registrars—analogueous to our Punjab non-official registrars—declares that instruments executed by agriculturists shall not be deemed valid unless executed before such an officer, and requires that the amount and nature of the consideration shall be fully stated and attested.

(6).—*Exclusion of legal practitioners from the courts of munsifs and tahsildars.*

I have described the effect of legal practitioners on civil justice at page 133 of this volume.

Pleaders. Munsifs and tahsildars dispose of 75 per cent. of the petty civil and revenue-judicial cases in which natives, whether agriculturists or not, are concerned. The parties are generally one or both poor, and their disputes of such a simple nature that in most cases the arbitration of an honest local, when procurable and willing to act, would settle them better than a court of law. The employment of outside lawyers by one or both parties only doubles costs and prolongs litigation. Even if, as is certain, increasing competition will gradually raise the qualifications of lawyers who take up cases in the courts of munsifs and tahsildars, the practical effect would be an increase in the evils just noticed. Superior qualifications would require higher remuneration, and would multiply

pleas on points of law. I believe I am correct in asserting that there is a consensus of opinion amongst English administrators of all grades, which native feeling loudly endorses, that the unlimited license of practice permitted by law to pleaders and mukhtars, stimulates reckless litigation, demoralises litigants, ruins families, and—in which lies the pity of it—does no good. It is no argument to urge that litigants would not employ pleaders were they not useful. Ignorant natives must be protected against the consequences of their own ignorance. What the attractions of the gambling tables of Monte Carlo are to weak-minded visitors, the plausible promises of pleaders are to weaker-minded natives. The chances of success alluringly unfolded is a bait which ruins both. The European gambler, however, knows what the chances are, the Indian litigant does not.

APPENDIX A.

PRESENT CONDITION OF THE PEASANTRY IN THE EIGHT DISTRICTS OF THE SOUTH-WESTERN PLAIN.

1.—*Shahpur District.*

THE Shahpur district was settled many years ago. A revision will shortly be begun. During the last 16 years, several inundation canals have been dug from the Jhelum with good results. The railway line is now open to Bhera, and is being extended. Statistics upon agricultural indebtedness, and the alienation of land to non-agriculturists, are very imperfect. I know the district, and believe that the District Officer's conclusion given below is correct:—

There are no large bankers in the district, but every village has its petty money-lender, generally of the Khatri caste, to whom the people are largely indebted. The Deputy Commissioner reports that “the peasantry are generally in debt. This is due partly to a succession of several seasons of drought, but chiefly to the very improvident and extravagant habits of the agricultural classes in respect of marriage expenses, useless establishment of retainers, dress, and the like. It is also due partly to the high interest obtained by money-lenders for loans, for which the rate without security is often as high as Rs. 6-4 per cent. per mensem, or Rs. 75-12 per annum. On mortgages the rate varies with the nature of the security, from one to two per cent. per mensem.—*District Gazetteer*, p. 57.

2.—*Montgomery District.*

Mr. Purser, C.S., revised the settlement of this district.

Mr. Purser. The work was begun in 1868, and completed in 1874. Mr. Purser's knowledge of the district and people is more extensive and exact than that of any officer who has ever served in Montgomery. He had no society but that of the people, and no occupation but that of his work. His ability and learning are great. The extracts given below are from

his settlement report. His facts may be accepted as accurately true.

The people of this district are a bold, sturdy set; they are unsophisticated, and can laugh. But they avoid speaking the truth upon principle, and withal lie in such an artless and reckless way that a Hindustani would blush with shame at their silliness. They completely fail to grasp the idea of rights in property, when the property appears in the shape of their neighbour's cattle or wife. They are only moderately industrious. Some say they are lazy, but they are not. They are extravagant, ignorant, and superstitious. To travellers they extend a tolerable hospitality; but Hatim Tai need not look to his laurels on account of their rivalry. In fact, they seem made up of bad qualities and half-hearted virtues, yet there must be something good about them, for one gets to like them: but why, it would be hard to say.

* * * * *

The revenue and the seed are usually borrowed; and there are very few villagers that are not seriously in debt. This is matter of little importance, so long as the *Kirâr* does not try to oust the proprietors and get the land into his own hands. But such a course is very rare in this district, because, except in the canal villages, a *Kirâr* makes a great deal more as creditor of the owner of the land than he would as owner himself. But the people are very bitter about the exactions of the *Kirârs*, and make unpleasant comparisons between now and the good old Sikh times. Then if a man owed a *Kirâr* money, and they could not arrange matters, the case went before the *Kardar*. The *Kardar* had the *Kirâr's* books examined, and on being told how much principal and how much interest was due, he would say—"Strike off so much interest!" Then he would inquire how many cattle the debtor had. He would be told, so many. "And what are they worth?" "Ten rupees each head." "Good, the *Kirâr* must take the cattle at Rs. 12 each in payment of his debt;" and every body went off satisfied. Now the debtor offers cattle; but the creditor prefers *chehra shahi* rupees. A suit is the consequence, and the debtor has to pay the costs in addition to the claim. The creditor, who before the suit had no desire to have the cattle, suddenly discovers that they are not without merit. He executes his decree, attaches the cattle worth Rs. 10 each, and buys them himself for Rs. 5. There is a great deal of truth in this account of matters; but the fact seems to be totally forgotten that the *Kirârs* did not rob the people then so

much as they do now, simply because the Sikh Kardar took very good care that the people should have nothing whereof to be robbed.

3.—*Muzaffargarh District.*

This district was settled by Mr. O'Brien, C. S., between 1873 and 1880. He devoted himself to his work, and lived amongst the people all the year round. There is no society in the district. Whilst Settlement Officer, he acquired the Jatki dialect of the people, and made a collection of their proverbs and songs. It is impossible that an Englishman could have a greater knowledge of his charge than had Mr. O'Brien. The extracts are from his settlement report. His facts may be relied on as correct.

No material difference in welfare exists between tenants with occupancy rights and tenants-at-will in this district. The average area owned by proprietors is five acres. Both proprietors and tenants have an area for grazing, which is practically unlimited. Both proprietors and tenants live in what is literally a hand-to-mouth way. Each harvest barely suffices for the wants of the half year, and is almost always forestalled by borrowing. In regard to their economic state and habits, the agricultural classes naturally group themselves into Mahomedans and Hindus. Of the Mahomedan proprietors, 70 per cent. are in debt. Of the Hindu proprietors, 30 per cent. are in debt. It is very difficult to estimate what proportion the average indebtedness of the proprietors bears to the average yearly income. The lowest estimate in the materials before me says, that the amount borrowed yearly is equal to 30 per cent. of the yearly income of the indebted proprietors. The highest estimate gives the debts as 80 per cent. of the yearly income. Of Mahomedan tenants 40 per cent., and of Hindu tenants 20 per cent., are in debt. The yearly debts of the tenants are equal to 20 per cent. of their yearly income. The cause of the difference between the numbers of the indebted among Mahomedans and Hindus, respectively, is to be found in the difference of the habits of each class. Mahomedans are mostly spendthrift and improvident. The Hindus are the reverse. Mahomedans are nearly always uneducated; Hindus are always more or

less educated. Hindus usually avoid acts that would bring them within the reach of the criminal law, while Mahomedans supply almost the whole criminal population, and so incur the expenses which follow from being suspected by the police and being prosecuted. Mahomedans have only one source of income, *viz.*, agriculture. Hindus, who own and cultivate land, almost always combine money-lending and trade with agriculture. Hindus acquire land as payment for debts. Mahomedans generally borrow money to buy land.

*. * * * *

The indebtedness in this district is greater than in any district with which I am acquainted. I append some very true remarks of Mr. Lyall's on the subject, which he made when reviewing the assessment report of the Alipur Tahsil:—"I quite agree with Mr. O'Brien's remarks as to the indebtedness of the agriculturists, and the faults in their character, which are its main cause. The same faults are attributed generally to the Mahomedan land-holders of all this southern corner of the Punjab, but they are found in this Tahsil in a very exaggerated form. The heavy floods, and the fever which follows, have something to do with it. The almost universal prosperity of the *Kirâr* land-holders is proof that there is nothing crushing in the general pitch of the assessment. But as the Biluches, Syads, and Jats say, it would be folly to expect them to alter their characters and habits, and rival the thrift and frugality of the *Kirârs*. These *Kirârs* are the Jews of the country, and have a special natural aptitude for earning and saving money. The general character of the agriculturists must be considered in assessing; but from what I have seen here and in Mooltan and Dera-Ghazi-Khan, I do not believe that a very light assessment would tend to get them out of debt."

A.—Jhang District.

Mr. Steedman, C. S., revised the settlement of Jhang between 1874 and 1880. His knowledge of his district was thorough, as, like Mr. O'Brien, he lived amongst the people for years, and felt great sympathy with them. Like Montgomery and Muzaffargarh, Jhang is a secluded rural district, in which there are only one or two European officers, in addition to the Deputy Commissioner. The extracts given below from Mr. Steedman's settlement report, faithfully

represent the way the Jhang agriculturists have become involved in debt.

When the owner of a good well or a fat piece of *sailâb* How peasants fall deals with a Bunniah who is anxious to into debt. hold some land in mortgage, he finds that his credit is unlimited. It is a case of spending made easy. He can have whatever he wants whenever he wishes. All that he is troubled with, is his signature or assent to the usual six-monthly statement of accounts, and at harvest time he will make a few payments to the Bunniah in grain. This goes on for four or five years, or often longer. Then the demeanour of the creditor changes. He insists upon a registered bond for the amount due or a mortgage. The debtor temporises as long as he can, perhaps transfers his account to another shop, often takes his chance of a law-suit, trusting in his luck to evade some of the items. All these devices fail, and he makes over a share in his property on a verbal *lekha-mukhi* contract to his creditor. This is probably the very worst thing he could do. A *lekha-mukhidar* is as hardly displaced as was the old man of the sea. The zemindar never goes into the account, and is fleeced in every possible way. Instead of growing less, the debt grows larger, and a mortgage is at last gained." * * *

The real and true cause of all our woe was the mistaken and misplaced gift of full transferable The gift of full proprietary right in land the original cause of indebtedness. proprietary right in land to the cultivator, and with it of a vast credit, only limited by the value of that proprietary right. It is only of late that there has been an awakening to the true facts of the case; but that the cause stated is the true one, I have not the slightest doubt.

The thrifty and unembarrassed zemindars of this district can be counted upon one's fingers. So long as a zemindar has credit, so long will he borrow, and so long as he borrows shall we find our annual returns of land-transfers slowly, but surely and steadily, increasing. The sole basis of his credit is his transferable property in the land. Take this away, and all the security that the money-lender has is the annual outturn of the crops. In such a case we should not hear of zemindars being thousands of rupees in debt. Their credit would shrink, and their debts too. There are numbers of villages along-side the Bar, east of Kot-Isashah, in which there is hardly a single mortgage. Why? Because cultivation is uncertain, and the mortgagee might find the mortgaged well abandoned in a few

months, and himself left saddled with the revenue. It is not good enough. Here the zemindars have no credit, and they are not in debt, except to a small amount. You do not find tenants-at-will over head-and-ears in debt. They are in debt it is true, but the limit is the amount that the Bunniah considers is pretty certain to be re-paid to him at the next harvest.—*Jhang Gazetteer*, pp. 94-96.

5.—*Mooltan District.*

The settlement was revised by Mr. Roe, C. S., between 1873 and 1880. His native assistant was a gentleman named Rai Hukur Chand, an officer of great experience and knowledge of the district. The following is an extract from his opinion on the state of the agriculturists of the district. This opinion was given, in 1879, to the Famine Commission.

Proprietors.—These men are generally well, or fairly well, and some are very well off. Of the Mahomedans, 50 per cent. are in debt, but many are only temporarily so. They have to borrow to meet any emergency, but pay off the debt in two or three years. This 50 per cent. of the debtors may be thus sub-divided :—

	Per cent.
(1). Those who are so involved that they cannot free themselves without selling all or a part of their land	10
(2). Those who are solvent, but cannot pay immediately	25
(3). Those who can pay immediately	15

Debts are due to two main causes—(a) ostentation and profligacy, (b) litigation,—i. e., cases arising out of spite and criminal fines. Of the Hindu proprietors, only some 15 per cent. are in debt. Of these, about half are petty *Kirâr* zemindars, who are probably insolvent. The others can pay without difficulty.

Occupancy tenants are generally poor; some are decently off, but few make more than a living. Some 20 per cent. of them are in debt, but their debts are small, and arise chiefly from agricultural misfortune, such as the death of bullocks, sickness, &c., or from punishment in the criminal courts. The *maurusis* paying in cash are very few; nearly all are men whose rents were authoritatively fixed at the last settlement, and who

are practically sub-proprietors. Their profits are some 50 per cent. higher than those of the servants-at-will.

Tenants-at-will have to be sought for by the proprietors and settled at their expense on the wells. They are poor, but not more than 10 per cent. are in debt, and their debts are very petty.

The Settlement Officer, Mr. Roe, after expressing his concurrence in the opinion just quoted, writes as follows:—

We find the people just what, from the historical summary already given, we should expect them to be. Mr. Roe's opinion. The great mass of them are Mahomedan Jats, the descendants of Hindu tribes, some of whom may have come from Rajputana and Sindh, whilst others may have been in the country from long before the days of Alexander. Besides these, we have groups of Afghans, generally of superior position, who gained their lands with the Nawabs of Mooltan, and a considerable number of Hindu *Kiràrs*, who, for the most part, pushed their way, or were introduced by Sawan Mull, into nearly all the villages during the Sikh rule. Amongst the Jats, many of the better classes are men of energy and intelligence, taking a keen interest in the improvement of their estates, and managing them most successfully. But the bulk of the smaller zemindars are ignorant and careless farmers, destitute of energy, drifting along without a thought for the morrow, and not attempting to look into their accounts as long as the money-lender will give them an advance. When the day of settlement comes at last, and they find themselves hopelessly involved, they attribute their ruin, not to their own laziness and extravagance, but to the avarice of the *Kiràr*, and look to the District Officer to cancel their debts and reduce their assessments. Some excuse may be made for them in the fact that they were quite unprepared for our system of cash assessments. * * The Hindu *Kiràrs*, as a rule, are thrifty and hardworking, and most of those who own land have little to do with money-lending. Most of the leading Afghans are, like many of the leading Jats, energetic and intelligent, but they suffer from the same vice of extravagance. Men who should be walking, think they must keep their horse; those who could properly afford one or two horses, think they must keep five or six: men who would be men of substance and position, if they would only look after their property themselves, think it adds to their dignity to transact all their business through a *mukhtar* or agent. The consequence is, that there is a very serious amount of indebtedness. Only the amount due on regular mortgages has been recorded in the settlement papers, and this can hardly be accepted

as absolutely correct. But it is hardly likely to be over the mark, for against exaggerations intended to defeat pre-emption, may be set off accidental omissions. Taking the amount of the liabilities shown in the statements as approximately correct, they cover 2·4 per cent. of the total area. At the regular settlement the area mortgaged was 1·7 per cent. of the whole. It is, however, probable that the increase has not really been so great as this, for at the regular settlement the importance of obtaining a record of the mortgage was hardly so well understood, and there were probably more omissions then than now. No attempt has been made to record the amount due on *lekha-mukhi* mortgages, but the area affected by them (counting only those which are proved or admitted) is 7·2 per cent. of the whole. Adding this to the regular mortgages, the total area pledged is 9·7 per cent. of the whole : this is a very serious amount of debt.

Colonel Wace's remarks on changes in the economic condition of the people under British rule.

In reviewing Mr. Roe's report, Colonel Wace comments upon the above remarks :—

On the whole, Mr. Roe attributes the debts of the agriculturists rather to their apathy, improvidence, and (in a few cases) recklessness, than to the necessary results of our system of fixed cash assessments. Though I do not desire to detract from the weight due to an opinion based on seven years' intimate association with the agricultural classes of the district, I think that few of us, in forming our judgment of the cases of existing agricultural indebtedness, adequately realise the changes in the economic condition of the people introduced since annexation. Within the last 33 years the people have passed rapidly from a system of direct dependence on the assistance and supervision of the ruler, to one in which they are thrown entirely on their own resources. The change is forcibly described in the reply* on this subject furnished to the Famine Commission by Mr. O'Brien, Settlement Officer of Muzaffargarh * * * * There can be no doubt that the continued bad farming, extravagance, and improvidence of the agricultural classes, has produced the present state of indebtedness. But if we go further and ask what caused the bad farming, extravagance, and improvidence, the answer is, that the people were never trained for the position in which they are placed by our Government, and were never fit for such a position. Under former Governments they were kept, as regards agriculture, in a state of tutelage. They were quite unaccustomed to manage for themselves. The Government *Kardars* did everything for them, made them cultivate

* *Punjab Replies to the Famine Commission*, pp. 459-500.

the land, made the Hindus lend them money and seed, and made the borrowers repay. The agriculturists were pitted against one another to cultivate. If one man did not cultivate his land it was taken from him and given to another who would cultivate. After annexation this minute superintendence was withdrawn. —*Mooltan Gazetteer*, p. 86.

6.—*Bannu District.*

I made the first regular settlement of the Bannu district between 1872 and 1879. In my report I did not draw as much attention as I ought to have done to the depressed state of the Cis-Indus tract of Mianwali. As I lived chiefly Trans-Indus, and as the frontier tahsils received the larger share of my attention, the Cis-Indus portion of the district, which lies from 70 to 90 miles away from head-quarters, across three troublesome, unbridged rivers, were comparatively little in my thoughts. I, however, knew the Mianwali tract well, having been in solitary charge of it for the two years preceding the commencement of settlement operations. Its area is nearly 1,500 square miles, throughout which, except in the bed of the Indus, a fixed cash assessment is levied. The rainfall is about 12 inches. The people are much in debt, and fast losing their best lands to non-agriculturists.

The following extracts are from my settlement report :—

The large majority of the land-owning classes are self-cultivating peasants of small means and frugal habits. With two important exceptions, they are all fairly prosperous and in infinitely easier circumstances than they were thirty years ago.

These remarks apply to the ordinary peasant, but with two exceptions. They are the Marwats of the poor sandy tracts, the larger half of Marwat, and those of the Bannuchis, whose holdings are so minute as to give the owners a bare subsistence. With both the struggle for existence is terrible, when anything occurs to increase expenditure or reduce income, and numbers

drop down every unfavorable year into the position of tenants or of labourers. With the former, once a debt of the class known as *ghara* (neck) is incurred, it is pretty certain that in a few years the debtor must sell his land. This pernicious *ghara* system of securing a loan dates from some twenty years back. Under it the debtor either engages to pay as interest a certain portion of his earnings, and thus makes himself the *quasi*-bondsmen of his creditor, or a certain measure of grain each harvest, crop or no crop. * * * * *. In the other exceptional case, that of the owners, of the minutest of the minute Bannuchi holdings, Government neither can nor ought to do anything. The assessment is fair, and a crop being a certainty, our system is elastic enough. The cause of the smallness of the holdings is over-population, and for that the State is not called upon to find a remedy. Besides, the Bannuchis are such a poor hybrid race as to be of little political account. With them there is no fear of a stalwart hereditary peasantry being expropriated as there is in Marwat.

* * * * *

Now to pass on to the landlord class—the *sufaid-poshes*—who do not cultivate with their own hands. As Improvidence and indebtedness of the landlord classes. a rule, they are neither so frugal nor prosperous as the better of the peasant proprietary class. Good 20 per cent. of them are deeply involved in debt, and a large minority habitually live beyond their income. A few of course, say 10 per cent., are shrewd, careful men, and their holdings and incomes are growing, not diminishing, in amount. Old families sink into poverty from two causes, both due to a foolish pride. The head of the house thinks he must maintain a reputation for hospitality, the highest of virtues amongst Pathans, and to maintain it he mortgages and borrows freely. Then his sons are brought up in idleness and married early, and no matter how the *res angusta domi* may press, they disdain to work with their own hands.

7.—Dera-Ismail-Khan District.

Mr. Tucker, C. S., made the first regular settlement of Dera-Ismail-Khan between 1872 and 1879. He had an intimate knowledge of his charge, and did his best to remove all necessity for indebtedness on account of a fixed revenue demand in a country of uncertain crops, by introducing a fluctuating system of assessment, wherever it appeared

feasible. In the short extracts given below, he states simple facts, and does not examine into causes.

When lands are mortgaged to Hindus, the mortgagor generally remains in possession, paying either a share of the produce, or a fixed amount in cash or grain, or regular cash interest. In these latter cases, the property is only collateral security for the payment of the debt, and the revenue is paid by the mortgagor as before. Where cash interest is taken, the rate is generally Rs. 1-9 per cent. per mensem. Where the mortgagee gets a share of the produce, he has generally to pay a corresponding share of the revenue,—sometimes he pays the whole revenue. Another sort of mortgage is the ordinary usufructuary mortgage, where the mortgagee keeps an account of the produce, and charges it against the principal and interest of the debt. In these parts, however, the profits from the land are seldom applied to meeting the principal, which is paid off in a lump sum at redemption. Hindus rarely take over the cultivation of mortgaged lands, as they find that the old proprietor makes the best tenant, and his affection for his old fields makes him submit to harder terms, as regards rent, than would be accepted by an outsider. There are seldom any detailed provisions as to redemption of mortgages. They are generally for no fixed term, and can be redeemed after the wheat harvest has been cut.

* * * * *

Mortgages Cis-Indus. In the Dera, Bhakkar, and Leiah tahsils, the bulk of the mortgages are held by Hindus. As a rule, the greatest amount of mortgage is to be found in well tracts. Proprietary rights in wells were clearly recognised under native Governments, and a large portion of these well-mortgages date back to pre-annexation days. The cultivators of *sailaba* and Daman lands originally held the position rather of tenants than of proprietors, their rights being acknowledged only so long as they cultivated their lands efficiently. Such lands, therefore, were only mortgaged in the more settled tracts. To the present day there is but little mortgage in the river villages, where lands are liable to be washed away, and do not therefore afford sufficient security to the money-lender. In parts of the Bhakkar and Leiah Kachi the population is very much indebted, and there is no doubt that many of these small Mahomedan proprietors must eventually be sold up.

Mr. Lyall endorsed the above conclusion in the following words :—

All we can do is to amend anything in our revenue system which tends to hurry on the process. Only a minority of these men have proved fit for the improved status which we gave them; the majority will descend in time into the position which suits them, of mere tillers of the soil, with enough to live upon, but no credit to pledge and no property to lose. Their original position under native Governments was little better than this. It is of course the too frequent elevation of the despised *Kirār* or Hindu money-lender over the heads of a naturally dominant Mahomedan population which is the worst part of the change.—*District Gazetteer*, pp. 89-91.

I served in D.-I.-Khan from 1882 to 1884, both years included, as Deputy Commissioner, and latterly as Divisional Judge, and during those four years collected much information on agricultural indebtedness. In June, 1884, I submitted a report on the subject to Government, from which I here take the following extract :—

My inquiries lead me to believe that, excluding the five to eight lakhs of petty debts, most of which could be easily paid off after any average harvest, the debts at present owed by Mahomedans to Hindus in this district, amount to between 12 and 14 lakhs of rupees. Taking the lower figure of 12 lakhs, the annual interest on it is not less than on the average 18 per cent. or Rs. 2,16,000. The true state of the indebtedness of the agricultural population of this or any other district will only be disclosed when a debt commission be appointed, and ascertain publicly at his home in typical villages in each locality the debt owed by each hereditary agriculturist. The process is not difficult. I have myself carried it out in some villages in the Bannu district. So far as my inquiries have gone, they warrant a conclusion that the following table is no exaggeration of the truth :—

State of indebtedness, if any.	Percentage of Mahomedans.
Already ruined	13
Irretrievably involved	10
Seriously, but retrievably involved	28
Would be free with two good crops and a little thrift	26
Owing nothing, or if anything, under Rs. 50, and easily able to pay it	23

In all that I have hitherto written, I have, to the best of my ability, endeavoured to rather under than over-state what I believe to be facts. That I am no pessimist, but rather the reverse, a perusal of paras. 67 and 68 of my Bannu Settlement Report will prove; but in those paras. I seem to have omitted to take into account the state of the agricultural population of the Mianwali, Thal, and Mohar tracts, now, I believe, in very depressed circumstances. I also hoped that the extreme moderation of my Trans-Indus assessments would eventually free most deserving debtors from their embarrassments.

I acknowledge that the material prosperity of this district is greater than it was before annexation. Increase in material prosperity of the district. The value and quantity of gold and silver ornaments worn by Hindus—men, women, and children,—at festivals,—e. g., the Baisakhi, cannot but strike strangers with the comparative wealth of that intelligent and frugal people. Then as to Mahomedans, they eat better, dress better, have more metal vessels in their houses than before annexation. What Mr. Lyall remarked in the quotation made in para. 8,—*viz.*, “the majority” (of the Mahomedan proprietors) “will descend in time into the position which suits them, of mere tillers of the soil, with enough to live upon, but no credit to pledge, and no property to lose: their original position under native Governments was little better than this,”—is perfectly true in one sense. But we shaped and defined the rights of those Mahomedan proprietors. We gave them landed status, and taught them to value it, and they are losing those rights and that status in consequence of “our system;” and whether in a material sense they are as well off now as under native Governments, or even better off, is a side-issue only, because besides being materially poorer to-day than they were, say, twenty years ago, they are also worse off in this important respect, that they were under native Governments members of the dominant caste, or connected with it at all events; whereas now they are becoming servants of the then dependent and still despised caste. Again, in years of drought before annexation, the Mahomedan cultivator could easily save himself and cattle by migrating elsewhere, but now through the increase of population and the recording of rights, vested and well protected interests everywhere shackle his freedom of movement, and obstruct or forbid free squatting and free selecting even of a temporary nature. Though, too, it is true that the “cultivated area” is double what it was at annexation, and that the population has not increased at a similar ratio, still the ratio of increase between the two can only be usefully compared in generally good and average years. In the

The *crux* is the social degradation which is befalling agricultural classes.

frequently recurring years in which crops are confined to protected localities, the extra lakh of mouths to be fed find no food in the extra two lakhs of acres of "cultivated area." All these are considerations which detract much from the value of what is in one sense a truism, that the cultivating class is no worse off now than it was under native rule. * * *

8.—*Dera-Ghazi-Khan District.*

Mr. Fryer, C. S., made the first regular settlement of this district between 1868 and 1875.

Mr. Fryer.

In his report he says very little upon the subject of agricultural indebtedness. In 1879 his native assistant, a gentleman named Chiman Lal, who had served for about 20 years in the district, and knew the history of almost every family in it, reported to the Famine Commission that two-thirds of the Mahomedan land-owners and fully half the tenants, whether occupancy or tenants-at-will, were involved in debt (pp. 68-69 of *District Gazetteer*). I was in charge of the district during the greater part of 1881, and think that the above opinion is correct. The Mahomedans, with the exception of the best of the great Biluch tribal chiefs whom Government has wisely treated very liberally, are generally as depressed as are their brethren Cis-Indus in Muzaffargarh.

APPENDIX B.

PRESENT CONDITION OF THE PEASANTRY IN THE SIX DISTRICTS OF THE NORTHERN TABLE-LAND AND IN THE ADJOINING DISTRICT OF GUJRANWALA.

1.—*Hazara District.*

COLONEL WACE, now Junior Financial Commissioner, made the first regular settlement between 1868 and 1874. He has devoted most of his time, since his first appointment in the Punjab Commission, in 1863, to the study of revenue and economic subjects. Next to Mr. Lyall, late Financial Commissioner of the Punjab, his knowledge of the people is more comprehensive than that of any officer now serving in the Punjab. Rather lengthy extracts from his settlement report of Hazara are given below, as his opinions are of great value.

In Sikh rule, owing to the scarcity of money and the small portion of the agriculturists' farm produce that has any marketable value (little besides the grain and butter), debt once incurred was repaid with difficulty. The agriculturists feared to borrow, and they rarely did so, except—(1st), to pay the State revenue or a fine; (2nd), in case of famine, failure, or destruction of crops, or when there was really no food to be got in any other way; and (3rd), very occasionally at marriages and deaths: under ordinary circumstances, rather than borrow they were content to live in a state which their sons would now regard as poverty. Similarly, money-lending was confined to the better classes among the Khattris; the same circumstances which made the agriculturists careful in borrowing, made these Khattris careful how they lent money. If the money was wanted for purposes of extravagance, they would not usually lend, and their loans to ordinary agriculturists did not generally exceed Rs. 20 at one time. The common rate of interest was one per cent. per mensem, though for doubtful loans

or by small lenders Rs. 2 would be charged. To charge more than one per cent. was considered a mark of unsound business, and therefore, for the credit of their business, the best Khattris ordinarily charged one per cent. Moreover, the security for the repayment of the principal was great : public opinion reprobated the repudiation of a loan, no matter what interval had elapsed : even a man's heirs were bound to pay. And the rulers of the country recovered any debt, no matter how old, for a charge of one-fourth of its amount.

It is not too much to say that nearly the whole of these conditions have been reversed during the past 30 years. The value of agricultural and milch produce has more than doubled, and the very straw and grass grown on an agriculturist's holding is now saleable. Simultaneously the area under cultivation has been greatly increased, and the proportion of the produce absorbed by the State's demand is rateably less than half what the Sikh Government took. It is, moreover, still absolutely less in amount than was taken by that Government, in spite of the enormous increase in assets and their value, and even after taking into account the rise in the assessment introduced in 1872. Moreover, the rise in values did not occur gradually, but took place suddenly, being introduced by the famine of 1860-61. The agriculturists consequently found themselves suddenly enabled to pay off old debts with a rapidity which was quite unexpected by them : the produce of their cattle and land they found to be rapidly rising in value, allowing them to live more freely and in greater comfort than they had ever before experienced. Along with this we introduced an important change in the law, applicable to the class of loans usually contracted between agriculturists and Khattris : the period of limitation for their recovery, originally reduced at annexation to 12 years, was, by successive steps, finally contracted in 1867 to three years ; and it also became known that our law did not bind a son to pay the debts of his father except under certain limitations. The general result of these changes was to loosen the restrictions hitherto observed both by the agriculturist and Khatri. The agriculturist, finding his produce of all kinds so much more marketable, and so largely increased in value and amount, has lost the fear of debt which before restrained him : two or three good harvests will now enable him to repay a sum, which he would hardly have dared to borrow before ; and he looks to the limited period within which the lender can recover the loan by appeal to our courts in much the same light as an English farmer would regard the Bankruptcy Court. If, owing to unforeseen failures of crops, he is unable to repay the loan, he hopes by the aid of the limitation law to evade it altogether. The agriculturists consequently now

borrow on much lighter grounds than before, and no longer restrict such transactions to occasions of real necessity.. Unfortunately their intelligence has not increased with their wealth ; they draw on their Khatri recklessly, and accept his accounts blindly.

On the other hand, the Khatri are fully alive to the bearing of these circumstances on their interests. The circumstances of the agriculturists being so greatly improved, there is no longer the same occasion for the Khatri to limit so carefully the amount of their loans. And seeing, on the one hand, that their clients are so ready to borrow and so well able to pay, and on the other hand, that our courts refuse to enforce any but fresh debts, it was inevitable that they should raise their charges for interest : two or even three per cent. per mensem is now a common charge for loans, and for doubtful loans even more is charged.—*District Gazetteer*, pp. 111-113.

In the above there is little about the Hazara district.

Prosperity of Ha- Its state is, however, generally pros-
zara. perous. Although the landlord classes are almost all deeply involved in debt, the cultivators are generally unembarrassed. Colonel Wace held, that although there is now more borrowing, there is less real indebtedness amongst the agriculturists of the district than there was in Sikh times. I have lately taken over charge of Hazara from Mr. Fryer. In the district note he left for me, he recorded that all the leading men, except five, were more or less in debt.

2.—*Peshawar District.*

The late Colonel Hastings, *C. B.*, settled Peshawar between 1869 and 1876. He was very
Colonel Hastings. sympathetic with the people and knew them well. In his report he says little about agricultural indebtedness. I believe that the peasantry are not generally in debt, but that a large proportion of the landlord class is. The following extract from Colonel Hastings' report is taken from page 135 of the *District Gazetteer*.

The people, as a rule, although better off than under former rulers, are not extricating themselves from debt. If report

is true, debts are, and have, increased chiefly owing to that bad custom which induces them to vie with one another in expenditure at marriages and deaths. More money is now spent on jewels, food, and clothes than used to be. Gambling, too, which is becoming very common, has much to say to the indebtedness of certain classes. Cash loans are obtainable between the rates of 1 and 3 per cent. interest per mensem : as much as 25 and 50 per cent. are charged for loans repayable at the next harvest. For seed-loans, from half *ser* to one *ser* per maund is paid as interest. Money is obtainable, on a deposit of jewels, at Re. 1-9 per cent. per mensem. It is not unusual to find land mortgaged to two persons, the proprietary right to one and the cultivating right to another. Till this settlement, the ordinary custom in the district was for proprietors to mortgage their lands, give over possession to the mortgagees, but still continue responsible for the Government demand. For the future, such agreements as these are not attended to : the revenue is primarily recovered from the person in possession. The debts are chiefly due to the local shop-keepers.

3.—*Kohat District.*

This district has just been settled by Mr. Tucker, C. S. In his report he says nothing about the prosperity or otherwise of the agricultural classes. I do not know whether there is a gazetteer of the district or not. For the reasons given in page 90 of this book, I do not think that the agriculturists are much in debt, or that money-lenders have acquired rights to any serious extent in their lands, except perhaps in the best protected localities.

4.—*Rawalpindi District.*

Mr. Robertson, C. S., is just completing the revised settlement of the district. The land revenue demand has been raised by about 35 per cent. all round. Mr. Robertson considers the agriculturists fairly prosperous, and after more than six months' acquaintance with the district as Deputy Commissioner my opinion is the same. In the southern tracts, in which the rainfall is much less than nearer the Himalayas, and

considerable indebtedness: many of the landlord class are also in debt, but when so, deserve no sympathy. I refer the reader to page 91 of this book. The following passage is taken from pp. 76-77 of the *Gazetteer*. I do not know on what authority the opening assertion is based.

The prosperity of the district is attested by the fact that the peasantry are rapidly extricating themselves from debt. Under Sikh rule, fully 50 per cent. are said to have been in debt, but it is believed that not more than 10 per cent. of the cultivating classes are now involved. The present rate of interest for a cash loan is a deduction of one anna in the rupee at the time the money is paid (this is called *tarawat*), and afterwards at the rate of 2 per cent. per mensem on the full amount. In loans of grain the interest is often 50, never less than 25, per cent.; a maund of grain being given for seed on a bond to return at harvest time one and a quarter or one and a half maund, as the case may be. Money can be had, on a deposit of jewels, at a rate of one per cent. per mensem, and where land is mortgaged as security, interest is seldom paid in money. If possession is given to the mortgagee, the whole produce is set off against interest, the mortgagee bearing the expense of management and paying the revenue; if not, one half the produce is ordinarily given in lieu of interest. There are very few large native bankers, and loans are chiefly conducted by local shop-keepers. There is no evidence of accumulation of coin; but the increased quantity of jewellery and trinkets worn by the people, taken with their generally improved style of dress and mode of living, goes far to prove that much of the profit resulting from a peaceful rule and a moderate assessment, finds its way into the pockets of the cultivating classes. Savings are chiefly invested in jewellery, but a growing desire is manifested to buy up land.

5.—Jhelum District.

The revision of the settlement of this district was effected by Colonel Wace and Mr. Thomson, C. S., between 1874 and 1881. The peasantry are said by some officers to be generally prosperous, but the evidence on the subject is unsatisfactory. The following extract from the Deputy Commissioner's report to the Famine Commission, in 1879, is taken

from page 91 of the *District Gazetteer*. I believe Colonel Wace was at the time the Deputy Commissioner.

The agriculturists give all their grain to the Bunniahs at harvest time. It is the custom to charge Rates of interest. two annas in the rupee for lending money. Thus, when a man gives a bond for Rs. 100, he only receives Rs. 87-8. He is then charged interest on the Rs. 100 at two annas ($12\frac{1}{2}$ per cent.) per harvest; the unpaid interest being added at each harvest to the principal. Thus, a man who borrows Rs. 87-8 will in three years owe Rs. 227-13, and in six years Rs. 460-11. The old custom was not to balance the account every harvest, but only when the debtor wished to settle it, or other special occasion arose; and for the oldest account not more than 50 per cent. was charged as interest if cash was paid, or 100 per cent. if settled by paying in grain or cattle. Moreover, both debtors and creditors are equally careless, the one in borrowing and the other in lending. A cultivator with a small holding used not to be able to borrow more than Rs. 20. Now he can run into debt up to Rs. 100 or Rs. 200. Another reason is that, in the old days, land could not be sold at all, whereas it now fetches a large sum.

The following remarks are by an old and experienced native Settlement Officer named Mirza Mirza Azim Beg. Azim Beg. They were submitted to the Famine Commission in 1879.

As regards the economic condition of the agriculturists of these districts,* there is no very broad distinction between the condition of owners, occupancy-tenants, and tenants-at-will. For An experienced native gentleman's opinion on indebtedness in Hazara, Jhelum, and Gujrat. the first 10 years after annexation the condition of all classes improved greatly; the harvests were nearly always good; cultivation was increasing; they bought milch cattle and jewels, and fed and clothed themselves much better than they had previously done. By-and-bye the crops began to become poorer on the new lands, and some bad seasons occurred. The leases of the first settlement ran out, and the agriculturists were called on to pay revenue on the lands newly cultivated. It also became difficult for them to keep cattle, for they had cultivated their own waste lands, and the larger wastes had been formed into Government preserves. So the owners gradually got into debt and the occupancy-tenants. The tenants-at-will who pay a share of the produce, pilfer a good deal from the crop before it is divided;

and they are commonly village craftsmen, adding by their trade earnings to the receipts from their land. The average condition of agriculturists in the three districts* of which I am writing may be taken to be as follows.

* * * * *

The agriculturists do not usually store grain in their houses; they give it all at harvest time to the village traders. In the northern part of the Hazara district, there is a custom by which at every harvest the village banker takes from the agriculturist as interest an *odi* (four *sers*) of grain for every rupee owed to him. If an agriculturist cannot pay this interest the cash value of the grain due is reckoned and added to the account. Cases sometimes occur in which, by this custom, all a man's harvest is swallowed up in interest.

In the same way most of the agriculturists of all three districts are in debt—perhaps 25 per cent. General indebtedness. are free, not more. Of those in debt, about one-third owe as much as one year's income, and this proportion is steadily increasing.

To test the matter, I examined the accounts of 23 families in 14 different villages, and found that Test examples. whereas they only held land assessed at Rs. 368 per annum, they owed Rs. 3,182, of which Rs. 1,283 was admittedly interest; and of the balance, Rs. 1,899, it is difficult to say how much is really principal and how much old interest; but, so far as I can ascertain, only one-third of this Rs. 1,899 is principal and the rest is all accumulated interest. The men who owe this possess jewels, value Rs. 972, and goods and chattels, value Rs. 334, and their land besides.

Examining nine other villages, I found that of 347 agricultural holdings, 164 were free of debt; 97 owe sums not exceeding 10 times their annual assessment; 65 owe more than that, but less than 30 times the annual assessment. The total annual assessment of these nine villages is Rs. 4,226, and their total debts are Rs. 32,454. The real reason of these debts is originally the extravagance of the zemindars, and subsequently heavy charges of interest. The accounts are opened with items of all descriptions, from payments of revenue to common expenses; but the real reason of the debts is as above stated.

In Jhelum it is the custom to charge two annas in the rupee for lending money: thus, where a bond is How a debt grows. given for Rs. 100, the debtor has only received Rs. 87-8, and then he is charged on the said Rs. 100 interest at two annas per rupee ($12\frac{1}{2}$ per

* Hazara, Jhelum, and Gujrat.

cent.) per harvest, the unpaid interest being added at each harvest to the principal. At this rate, in three years' time the debtor's account shows Rs. 227-13 due, though the sum actually borrowed was only Rs. 87-8. Thus he has been charged Rs. 140-5 interest. If the debt runs on in the same way for three years more, its total will then stand at Rs. 460-11.

The old custom was not to balance the account every harvest, but only when the zemindar wished to settle it, or other special occasion arose; and for the oldest account not more than 50 per cent. was charged as interest if cash was paid, or 100 per cent. if settled by paying in grain or cattle.

Moreover, both debtors and creditors are equally careless, the debtor in borrowing and the creditor in lending. A cultivator with a small holding used not to be able to borrow more than Rs. 20. Now he can borrow Rs. 100 or Rs. 200; or rather the sum he originally borrowed was small, and the debt has increased by interest. The creditor bides his time, and when he sees the debtor can pay, will press him in our courts. Another reason is this: the land will sell for a large sum; for instance, in the case of the 23 families owing Rs. 3,182 above mentioned, they own 327 acres of land, which, if sold, would, at the rates now obtainable for land—Rs. 84 per acre—fetch Rs. 27,599. In former days land could not be sold at all; but it should be remembered that if much land were offered for sale, such high prices would soon fail.

6.—*Gujrat District.*

Colonel Waterfield, C. S. I., now Commissioner of the Peshawar Division, revised the settlement of this district between 1865 and 1869. The question of agricultural indebtedness was then little discussed. Colonel Waterfield's remarks on the subject are taken from pp. 66-67 of the *District Gazetteer*.

It would seem that the debts had increased as the settlement operations advanced. But the people account for the great increase in registration by saying that the debts have not really increased, but that the advantages of registration are now perfectly clear to the money-lending classes. * * *

The attendance of the borrowing classes at the Settlement Courts was an opportunity not to be lost by the money-lenders, who, accompanying their debtors to the tahsils, made them not only register the debts of the year, but the balances of their accounts, and the unpaid debts of former years. Whether the indebted-

without the facts ; but a more uncomplaining lot of debtors cannot well be found. If the registered debts are Rs. 2,50,000 the unregistered debts must amount to half as much again ; in all, to more than half the Government demand for the year. But the Government demand being only one-sixth of the gross produce, one-fourth of the latter is only liable for debts and land revenue, and a large margin is left. Notwithstanding the apparently prosperous condition of the district, the people are no doubt much in debt, and the registration of bonds had largely increased in 1867.

7.—*Gujranwala District.**

This district adjoins those of Gujrat, Shahpur, Jhang, and Montgomery, all in the Western Punjab, and has a population of 453,000 Musalmans and only 164,000 Hindus and Sikhs. It is therefore more a Musalman than a Hindu district. I at first intended to include it in the Western Punjab, but owing to its vicinity to Lahore, the strength of the Hindus and Sikhs in it as dominant agricultural tribes, and the fact that after some months of service in the district I came to the conclusion that the Musalmans were very lax Mahomedans, I finally decided to treat the district as in the central division of the Punjab. This, however, does not preclude my giving the following extract from a report on the condition of the people, submitted in 1879 to the Famine Commission, by the late Mr. Tolbort, C. S., the then District Officer. The native gentleman Rai Gopal Das, whose opinion is referred to, is, I believe, the oldest and most experienced Settlement Officer in the Punjab.

The bulk of the land of this district is cultivated by the owners themselves. It is estimated that not more than 13 per cent. of the land is cultivated by tenants, whether occupancy or tenants-at-will ; and of the two classes of tenants, those at-will are more numerous than those having a right of occupancy.

* See pages 243-46 of *Indian Famine Commission Report (Appendix)*, Vol. III, Evidence in reply to inquiries.

It is estimated that 80 per cent. of the owners, 20 per cent. of the occupancy tenants, and 10 per cent. of the tenants-at-will, are indebted.

General indebtedness. It is further estimated that the average indebtedness of the owners is about 30 per cent. on their average yearly income; while the average indebtedness of the occupancy-tenants, similarly calculated, is estimated at 12 per cent., and that of the tenants-at-will at 5 per cent.

Rai Gopal Dass enumerates ten causes, to which he attributes the greater indebtedness of the owners of land during recent years. The first six of these may be comprised under the general expression "personal extravagance." The seventh is "frequent attendance at court." The eighth, "rapid growth of interest and compound interest through the working of the limitation laws." The ninth, "rise in price of agricultural cattle." The tenth appears to be a general observation to the effect that owners of land now regard themselves as able to dispose of the fee-simple of their estates, which formerly was not the case; and on the other hand, the money-lending classes have now become eager to obtain possession of land.

The land-owners of this district are not, I think, so indebted as those of many others. In enumerating the causes of agricultural indebtedness, I would certainly add "the inequality and want of elasticity of our revenue system" to those above detailed; and I am inclined to think that the eighth cause in the above list (which reflects on the law of limitation) might be modified so as to designate "inadequate and indiscriminating judicial investigation caused partly by over-refinement legislation, undue size of districts, and overwork of the district staff."

APPENDIX C.

STATEMENT ILLUSTRATING EFFECT OF REFORMS IN LAND-TENURE PROPOSED IN CHAPTER IX.

1			2		3	4	5	6	7	8	9	10	11	12	
No.	District.	Average annual land revenue (fixed, fluctuating, and miscellaneous), 1877 to 1881.	AREA IN SQUARE MILES.										REMARKS.		
			A.—RESERVED FOR AGRICULTURISTS.					B.—UNRESERVED.			Grand Total.				
			Cultivated.			Uncultivated.	Total.	Round towns and large villages.	Irrigated from wells and jhalars.	Total.					
			Báráni, or under direct rainfall.	Sailáb, or under river inundation.	Canal.										
1	Hazara	...	2,22,144	447	...	57	2,240	2,744	295	...	295	3,039	The revenue shown in column 2 is exclusive of extra cesses of all sorts which amount to about 20 per cent. more.		
2	Peshawar	...	6,84,562	668	...	537	1,089	2,294	172	38	210	2,504			
3	Kohat	...	Actual land revenue for 1884-85. 91,735	44	2	45	2,700	2,791	46	1	47	2,838			
4	Bannu	...	4,22,659	548	92	149	2,958	3,747	119	2	121	3,868			
5	D.-I.-Khan	...	4,56,144	127	306	495	8,037	8,965	186	145	331	9,296			
6	D.-G.-Khan	...	3,88,048	375	155	580	2,942	4,052	150	315	465	4,517			
7	Rawalpindi	...	6,95,872	1,105	...	...	3,344	4,449	384	(?)28	412	4,861			
8	Jhelum	...	6,55,265	1,018	38	35	2,576	3,667	239	4	243	3,910			
9	Gujrat	...	5,89,759	449	113	...	819	1,381	333	259	592	1,973			
10	Shahpur	...	4,28,502	98	...	502	3,871	4,471	164	(?)56	220	4,691			
11	Montgomery	...	5,15,316	16	79	262	5,015	5,372	146	(?)56	202	5,574			
12	Jhang	...	4,08,420	5	188	...	5,059	5,252	95	355	450	5,702			
13	Mooltan	...	7,28,495	164	121	550	4,631	5,466	323	91	414	5,880			
14	Muzaffargarh	...	5,68,220	...	37	42	2,518	2,597	173	369	542	3,139			
TOTAL			68,55,161	5,064	1,131	3,254	47,799	57,248	2,825	1,719	4,544	61,792			

APPENDIX D. *

THE FAMINE COMMISSION ON RELATIVE ADVANTAGES OF
FIXITY AND ELASTICITY OF DEMAND.

* * * *

3. It is asserted that the present rigid system of collection is not only productive of temporary hardship to the agricultural classes, but often inflicts permanent injury by plunging them into indebtedness, from which it is rare for them to recover. The depressed condition of the land-owners in Jhansi and in the Deccan districts is held by some authorities to be due in part to the too severe enforcement of the payment of the land revenue in unfavourable seasons ; and it is the belief of many experienced officials that there is no more effectual form of relief in times of pressure than a postponement of the Government demand.

Rigidity of fixed assessments injurious.

4. These opinions command great respect from the weight of authority by which they are supported. They have of late been the subject of special inquiries on the part of the Government of India with a view to ascertaining from local officials, practically familiar with the working of the revenue system, the results of their experience as to the reality of the evils alleged to arise from a system of unvarying collections, and the feasibility of the plans suggested for its reform. We have not had access to the information thus collected. The evidence, however, at the disposal of the Commission suffices to show that there is considerable divergence of opinion as to the degree in which the depression of the agricultural classes in parts of India is connected with the system of collecting the land revenue, and as to how far it would be safe or expedient to modify in any material respect the existing arrangements. Moreover, when we come to consider the practical measures suggested, we find that very different degrees of elasticity are advocated by different persons. Some would make the annual demand vary in the case of individual land-holders or individual villages, according to the estimate made of the harvest reaped in each instance ; some would make it vary uniformly over large tracts according to the general character of the harvest in each tract ; some would limit this variation by fixing absolutely

* See pages 127-30 of *Report of Indian Famine Commission (1880)*, Part II.

the amount to be collected in a cycle of years, but permitting a larger or smaller fraction of the total to be demanded in each year, according to the seasonal circumstances of the year ; some would allow a variation based on a consideration of the area cultivated in each year, not of the quality of the crop raised on that area ; some would adhere to the rule of a uniform moderate demand in ordinary years, allowing variations only in the case of almost complete failures in which so great a proportion of the crop is destroyed over a large area that Government is compelled to set on foot measures of relief.

* * * * *

6. With regard to the general question of introducing more elasticity into the demand for the land revenue, we must also bear in mind that although it has some of the characteristics of rent, as distinguished from taxation, and although the State to some extent stands in the position of landlord to those who pay land revenue, yet this analogy is in the nature of the case but partial. So far as the land revenue partakes of the character of rent, it is wholly impossible that the State, through its officers, can obtain the intimate knowledge of the condition of individual cultivators which is possessed by an ordinary landlord, and nothing but mischief could come of the attempt to regulate State action by the presumption that such knowledge could be obtained. So far again as it is of the nature of ordinary taxation, the collection of the State demand will necessarily be largely governed by the principles which apply to such taxation, and among these certainty and inflexibility are universally recognized as most important.

* * * * *

11. Where local conditions make the possibility of cultivating the land unusually precarious, as in the case of tracts habitually flooded by river inundation, which may fail to take place, or be excessive, or may subside too soon or too late for agricultural operations to be carried on, an exceptional procedure would appear desirable. We approve the system, successfully adopted in the Punjab in such cases, of carrying out a yearly rough measurement, according to the results of which a fixed rate of revenue per acre actually cultivated is levied. This plan would probably be found more suitable for Sindh than the Bombay form of settlement now being introduced there, and we think it possible that the application of a similar principle might be beneficial in any exceptionally dry upland tracts, such as exist in some parts of India, where the rainfall is very precarious and frequently insufficient.

12. It has been suggested that, although a system of varying assessment is not generally advisable, it may be suitable to the case of tracts of country where the landed class, either from want of thrift or skill in husbandry, or from other causes, are in a condition so depressed as to call for special treatment. The plan of a fixed assessment, regularly collected, is based on the assumption that the people by whom it is to be paid are, on the whole, of a sufficiently thrifty and far-sighted character to lay up in good years the means of meeting the demand for revenue in years of less prosperity. But there are populations where such qualities exist, if at all, only in a rudimentary form; and with these the rigid enforcement of the payment of revenue may tend to an indebtedness leading on to complete insolvency. The Government of India not unfrequently is called on to deal with particular districts where indebtedness and insolvency have assumed serious proportions, and where the general condition of the community is so unsatisfactory that it cannot be restored to prosperity without resort to exceptional measures. It has been suggested that the Government in such cases should apply a system of revenue collections so graduated at the discretion of the revenue authorities, with reference to the character of the season, as to produce in the long run a prescribed average, the collections being heaviest in the most prosperous years, and lessened or altogether remitted in seasons when little or no margin of profit has been yielded by cultivation. Such a system might work beneficially, along with other remedial measures, for the relief of an exceptionally involved or incapable agricultural community which has been proved to be unable to maintain itself without such interposition; but as it would necessarily involve a supervising establishment largely in excess of that ordinarily employed in a district, the expense and other evils attendant on it are such that the experiment would only be justified by very extraordinary circumstances, and as a temporary expedient, so long as the community is held to be incompetent. It is questionable, however, whether in such an extreme case it might not be simpler and preferable to revert to the old practice of taking the revenue in kind by partition of the crop.

As regards the views enunciated in para. 6, they are, I think, partly due to want of practical knowledge of the subject. I have answered the objection raised in the last four lines of the para. in page 115 of this book. As to the

My remarks on
Famine Commis-
sion's views.

alleged impossibility of a Collector's acquiring sufficient individual acquaintance with the condition of such cultivators, a morning's ride will give an officer all the knowledge necessary for assessment purposes over the whole of the observed area. Crops do not vary field by field, but circle by circle. ●

As to para. 11, if lands subject to river inundations require a fluctuating system, *à fortiori* the cultivated area in *barani* tracts of short and uncertain require it much more.

As to para. 12, the "cyclical system" therein indicated is impracticable for reasons given at page 110. The difficulty of supervision noted by the Famine Commissioners no longer exists, as the field establishments have lately been largely increased, as stated at page 113.

APPENDIX E.

EXTRACTS FROM MR. A. P. HOWELL'S PAPER "LEGISLATION IN INDIA," IN THE "CALCUTTA REVIEW" OF APRIL, 1886.

* * * * *

In the reported proceedings of the Supreme Council in December, 1866, an instructive speech of Sir H. S. Maine will be found, defending the Council from the charge of excessive legislation, but admitting that "there could hardly be any censure too heavy for the Council if it really did legislate with incaution and precipitancy;" and as regards the introduction of English Law—"one of the most difficult and cumbrous systems in the world"—that it would be a "most intolerable hardship" if 250 millions of people should have their civil rights defined in a system which they cannot understand, and which is contained in records not accessible to them. The point for consideration is, whether instances of incautious and precipitate legislation in India can be pointed to, and whether the people are, indeed, subjected to the hardship which Sir H. S. Maine denounced. It would be a mockery to ask those who are familiar with the real story of the Ilbert Bill, whether it was not both incautious and precipitate. * * * *

I am content to leave the Ilbert Bill, and to rest the argument on the more solid ground of other instances of the same system. The only difficulty in the selection of instances is the *embarras du choix*. I will, however, take the Specific Relief Act of 1877 and the Easements Act of 1882.

It would be hardly an exaggeration to say that until 1877, no one in India, barring barristers trained in England, had ever heard of the legal term specific relief. When Sir Arthur (now Lord) Hobhouse introduced the Bill to the best informed audience in the country, so ignorant was the Council of the meaning of even the title of the Bill that he was forced to explain—and the explanation is extant—that the measure had no concern with the relief of the scarcity then prevalent in Madras. Of course, therefore, there could be no discussion, for it was a case of *ubi tu pulsas Ego Vapulo tantum*, and equally of course the Bill passed, and was declared applicable to all British India. Will any one maintain that a measure so passed by a Council which knew nothing about the Bill, and by an introducer who knew nothing about the people, could be justified by any theory of legislation? I

can say from experience in a court of appeal, that after eight years of its operation, many of those who have to administer it are still quite ignorant of its provisions, and that to the great mass of the people it is a dead letter, or, being understood only by the pleaders, opens opportunities of sometimes vexatious litigation. Would not the measure have been far more warrantable had it had any real connection with the relief which its mover disclaimed ; and as it had no such connection, was there not a strange but true analogy between the Council so engaged and the Council of Laputa which busied itself in scientific frivolities, while the people around were dying for food and clothes ?

Take the other more recent instance. How many civilians prior to 1882 could have explained the nature of an easement or any vernacular term for it ? To this day, such an inquiry, especially among the older civilians, whom the examiner has long ceased from troubling, would elicit curiously discrepant answers. In fact, neither the title of the Act nor its chief provisions can be translated into any vernacular, without an adaptation of English terms analogous to the pigeon English of the Chinese sea-board. No executive officer ever dreamt of proposing such a measure. On the contrary, one Lieutenant-Governor seriously replied, when asked what number of troops were required for the protection of his dominions, that if the Legislative Department continued to harass the people with such Acts, he must reconsider his requirements. Objections of this type, of course, failed to stop the torrent of legislation at the fountain-head, but the local Governments, grown wary by experience, still managed at the last moment to divert its course. One after another of them declared that however excellent the Act might be in the abstract, they individually did not want it, and so the operation of the Act was accepted only by the more courtly representatives of Madras and the Central Provinces—notoriously the most backward parts of the Empire—and for the tiny community of Coorg, which by a curious anomaly is still directly subordinate to the Government at Calcutta. The restriction is a significant comment of the necessity of the Act at all. It is not required by the European community at Bombay or Calcutta, or by the highly intelligent natives there resident—the Parsis or Bengalis—but it is enforced among the rude Gonds and Bhils of Central India, and among a fraction of the wild mountaineers of the Southern Peninsula. Will it be maintained that the Indian Councils Act contemplated measures being passed in advance of requirements, and then being

rejected like misfits at a ready-made store? What would be thought of an English Act passed for Great Britain and Ireland, and then limited to the crofters of Skye? The analogy fails to show the anomaly of what has been done in India, because in no part of Great Britain can any community be found so low in the scale of civilization as in the Central Provinces of India. I know of whole villages where the current vernacular has no written character; where there is no currency, and all the resources of the village cannot raise change for a rupee; where men and women, on their rare appearance in court, are addressed even by natives through an interpreter, and are sworn by "the black dog;" where, on the occasion of an epidemic, the collective wisdom of the community will seize on an old woman supposed to be connected with the visitation, and will pound her to death in a tank. Such are some of the Gonds who are counted by hundreds of thousands. They are mostly agriculturists of the roughest type; and if one of them now finds closed the familiar pathway to his immemorial field, he must be told in English, which he cannot of course understand—and yet he can be told in no other tongue—that he must sue the dominant owner for a release of the servient heritage under Chapters IV and V of the Easements Act. The simple savage will reply that he is a poor man, and knows nothing of easements, and cannot afford a pleader. He must then be informed that such is the law, and that it is one of the merits of our system that the law is the same for rich and poor alike. Can it be maintained that the Easements Act, any more than the Specific Relief Act, finds any warrant in the constitutional scheme of Indian legislation, or that the passing of them is not clearly amenable to Sir H. S. Maine's censure?

Nor is this all. The large importation of technical law necessarily displaces a more than proportionate amount of native custom. If the excellence of a legal system can be gauged by the absence of lawyers, as the healthiness of a locality by the absence of doctors, native custom in respect of leases, mortgages, and common agreements had at least the merit of serving its own purpose. Until recently the agricultural communities of India, that is, the great bulk of the population, have been in the habit of managing their own affairs in their own way. The barrister and the pleader are of our recent creation; while, except in the Presidency towns, there are even yet no solicitors or conveyancers, barristers and pleaders, dealing with litigants direct. In England no sane man thinks of touching a mortgage or even a lease or

common agreement without a lawyer at his elbow, and the unwisdom of being one's own lawyer has passed into a proverb. In India the money-lenders, that is most well-to-do agriculturists, have been in the habit of drawing up all their own legal documents, rudely no doubt, but still so as to be a fair guide to the mutual intentions of the parties. If disputes arose, native custom all over India would settle them cheaply and expeditiously by a system of arbitration (punchayet) so excellent as to be recognised in those Acts whose tendency it is to abolish arbitration. But now, as our laws are rapidly becoming unintelligible to all but professional lawyers, and as the professional lawyer class is largely on the increase in wealth and numbers, a standard of legal skill and knowledge is being introduced, which bears very hardly upon those who do not come up to it themselves, and cannot afford to hire it. The ordinary native can no longer manage his own affairs. It must be borne in mind, too, that the very large majority of Indian Judges are not trained lawyers, are not lawyers in any sense, and that many of them are besides over-burdened with executive duty. The result is, that the executive work, in which the great body of the people is most interested, is hurried over in order that the amateur Judge may find time to elaborate something in faint resemblance to a professional judgment, as this part of his work may come before his superiors in appeal, and stand on record against him. The professional Bar which makes a business of the study of the law, is stronger than the amateur Bench, and this is the secret of the enormous fees which litigants in a very poor country still find it worth their while to pay for legal assistance. Over and over again I have heard natives say that a man has been convicted or lost his case, not because he was guilty or had the worse case, but because he had no barrister to appear for him. I am far from under-valuing the immense advantage which a Judge derives from a well-informed Bar, but I still hold that the causes which have suddenly placed so high a premium on the legal profession in India, are a great hardship to the masses, and especially to the poor, and that the multiplication of the pleader class and the ousting of the old land-holder class, are great political evils. The growth of the Bar and the increase of litigation are constantly held up in annual reports as gratifying evidence of an advance in legal efficiency and increased confidence in our courts. As well, I venture to think, might we look upon the multiplication of doctors and undertakers, and the increase of pawn-brokers' tickets as satisfactory proofs of increased professional or commercial activity.

The multiplication of English barristers and English-speaking pleaders, and still more the predominance of the barrister-element in the highest courts of appeal, naturally tends to leaven the whole Bench with English law. Our Judges, even in the lower grades, are beginning to plume themselves on citing English case law and text books—often to the neglect of that accuracy in the statement of facts on which most decisions really turn. Where a Judge would have been content, a few years ago, to satisfy his own sense of the merits of a case, he must now satisfy his ambition to show that he also can cite English ruling and precedent. In a recent case of some importance, I was encountered by a ruling taken from a decision of Sir G. JESSEL, uttered without any reference to India, and yet made the basis of a decision in an Indian appeal. As our courts of first instance have no access to such decisions, it seems to me to be productive of hardship and uncertainty, that a suitor at the last stage of his case may find himself worsted by a ruling taken from a source which he could not foresee.

* * * *

It will, perhaps, be objected that the Acts to which exception has been taken are a portion of the work of the Indian Law Commission, which, as a body appointed in England and working in England, is not amenable to an order of the Indian Government. I would ask the objector whether that Commission has any, and what, authority to override the Indian Councils Act, and whether the orders of 1873 did not express the spirit and letter of that Act? How and when the Indian Law Commission was appointed, with what objects, for what period, and at what cost, are some of the many things not generally known, and might in these days of extreme financial pressure well come under reconsideration; for, if there is one luxury of administration with which, more than another, the whole Indian public would most readily dispense, it is the costly superfluity of technical law. Ruffles for the shirtless are in no sense more anomalous than easements for Bhils and Gonds and savages of the same calibre. A more valid objection might be raised on the ground that the legislative needs of a great Empire are not to be measured by the capacity of its administrators of the day; that the object of the Government has been to bring the law up to the level of the English standard of completeness; that a system of scientific law is one of the best and most rapid educators of the people; and that if portions of the Empire are backward, that is no reason why all, including the more

advanced, should not share in the great boon of a scientific legal system, adapted from the best sources to the circumstances of India. This objection, besides assuming a great deal, raises the question of the theory of legislation as to which I can only hope here to invite discussion. Is it the case, I would ask, that the theory propounded by Bentham is obsolete—that all legislation is an evil, only warrantable when the legislator is assured of the existence of an evil capable of correction, and that his legislation will correct it? Tried by this standard, full warrant may be found for our Penal and Procedure Codes, the Evidence and Stamp Acts, and for other general Acts of the same class, as also for special enactments designed for local or temporary objects. But surely measures of this character differ from those which define or create altogether new rights and new penalties. In the large majority of Acts of the latter class there is no mention of the existence of an evil to be remedied, and no pretence that the measure in hand will remedy it. The usual Statement of Objects and Reasons which accompanies an Act, is restricted to the enumeration of the sources from which the Act is taken, and of the legislator's personal acquaintance with those sources. Legislation so originating fails altogether to be the prescription and the remedy which Bentham contemplated. The legislator of the present Indian type inflicts his prescription upon millions of the human race, not because they want it, or will be the better for it, but because he has, or thinks he has, a vast knowledge of prescriptions. Would any one, who could help it, consent to be so doctored in the gross, without regard to his symptoms, and can any theory of legislation justify the imposition of Procrustean Acts not originating in the circumstances of the people, but requiring those circumstances to conform, as best they can, to some arbitrary standard? I offer no opinion on the abstract merits of any of the Acts cited or referred to. They are the work of extremely able men in their own speciality, and their drafting is no doubt faultless from their own point of view. But legislation in the abstract does not seem within the scope of practical politics. It is certain that there are millions who do not want such Acts at all, and whose lives would be easier without them. It is too often forgotten that the Indian Empire is a bundle of nationalities, differing as the Esquimaux from the Neapolitan. Hence, in reply to the common inquiry what "the natives" think of this or that measure, or of this or that man, the only safe answer is, that millions never heard of the one or the other, and that of the rest some think one thing and some another. If English statesmen find it no

easy task to contrive an Act for Ireland, or any single section of Great Britain, what would be the difficulty of a measure intended for application to all Europe? And yet Indian legislation jauntily applies Act after Act "to all British India." As the limit of necessary general Acts has long since been reached in India, it would seem that henceforth the Legislature should be content with the humbler task of watching the laws actually in force, simplifying their operation, remedying real evils discovered in practice, eliminating some uniformity from the decisions of the Privy Council and the concurrent High Courts, and still more—with the best of all legislation—the repeal of previous legislation. It must be remembered that the oriental mind is strictly conservative, and does not share in that admiration for reform which characterizes the West. A recent Governor, on the occasion of the opening of an Industrial Exhibition—then a novelty—asked a native of the old school whether he was not pleased at the probable development of local resources. "My Lord," said the old man, with uplifted hands, "first the cyclone came and then the Exhibition, we poor people are being ruined." In the early days of the Empire the people suffered from the rapacity of new arrivals, each requiring to be satisfied. The rapacity has long since ceased, but the suffering remains, and will remain, if each new arrival to power is permitted to let loose his own packet of specialities, scientific or benevolent. Sir A. Hobhouse threw in Specific Relief, Mr. Stokes Easements, and there are ominous rumours that Mr. Ilbert will consider his term of office unworthy of his distinguished predecessors if he does not bequeath us an imperial system of "Torts." I have no hesitation in saying that the people at large do not require any information about torts.

APPENDIX F.

EXTRACT FROM A JUDGMENT BY THE HIGH COURT,
N.-W. P., WITH COMMENTS THEREON IN AN EDITORIAL
NOTE IN THE "PIONEER," DATED 30TH JULY, 1886.

The editorial note is as follows :—

The attention of Judicial Officers will be willingly given to the important judgment of the Allahabad High Court, given elsewhere in our Law Report to-day. The case in question was only a flagrant instance of a familiar evil, which everyone recognises and reprobates, but which the law courts too often do not see their way to check—the ruin of an agriculturist by the extortions of a usurer. In 1875 a ryot in the Jalaun district was found owing the sum of Rs. 97 to a professional money-lender. In order to renew he executed a mortgage-deed, agreeing to pay—though he was giving landed security—24 per cent. per annum on this Rs. 97, with compound interest in default of payment. He also agreed to pay a fine of one anna per rupee on the Rs. 97, to be added yearly to the amount bearing interest thereafter; or if he did not pay the interest regularly, it was to be calculated on the Rs. 97, plus interest or compound interest, and then added. The effect of these conditions was, that in ten years the Rs. 97 had swollen into Rs. 873, and when the unhappy borrower brought the case into the Assistant Commissioner's court, his suit was dismissed with costs, making him liable in all for Rs. 1,002. Had the decree been upheld, he would, of course, have been sold up, and while his paternal acres passed into the hands of the money-lender, he himself would probably have begun life afresh as a farm servant of the man who had supplanted him. The process is one which we see going on every day around us, and everyone is familiar with the special attempts which the Indian Legislature has made to counteract it. Fortunately the High Court have not felt bound to give the sanction of the law to oppression and fraud. The elaborate judgment of Mr. Justice MAHMOOD and the forcible language of Mr. Justice STRAIGHT speak for themselves. It is hardly necessary to say that it will be acceptable to all who have the interests of the country at heart to find the law harmonising so thoroughly with our natural ideas of justice. The hands of the lower courts should after this be strengthened

to deal with the multitudinous cases where advantage is taken of the ignorance and helplessness of the people to wring from them terms iniquitously unjust, but often enforced through thick and thin in virtue of a belief—as it now appears an exaggerated belief—in the sanctity of contract.

As to the judgment itself, it is only necessary to quote here the concluding remarks of Mr. Justice MAHMOOD.

* * * *

“I wish to add that I have considered it my duty to deliver such an elaborate judgment in this case because I am aware that a general notion prevails in the Mofussil that, ever since the repeal of the usury laws, the Courts of Justice are bound to enforce contracts as to interest, regardless of the circumstances of the case or the relative conditions of the parties, and irrespective of the unconscionableness of the bargain. Courts of Justice in India exercise the mixed jurisdiction of the Courts of Law and Equity, and, in the exercise of that jurisdiction, whilst bound to respect the integrity of private contracts, they must not forget that cases which furnish adequate grounds for equitable interference must be so dealt with, not because such a course involves the least contravention of the law, but because by reason of undue advantage having been taken of the weak and the ignorant, the contract itself is tainted with *fraud* in the broad sense in which that term is understood in the Courts of Equity in England and in America—a remark which seems to me fully justified by the rule of justice, equity, and good conscience, which we are bound to administer in such cases. For these reasons I do not think that this is a case in which we should interfere, and I would dismiss this appeal with costs.”

In concurring with his brother MAHMOOD, the Chief Justice, after quoting from various leading cases by the Court of Chancery, continued as follows :—

I draw particular attention to the lines I have had printed in italics.

“I gather therefore, according to the rule of equity laid down by Lord HARDWICKE, that equitable relief of the kind described by him may be extended to the cases of ‘persons under pressure without adequate protection,’ or to transactions with ‘uneducated ignorant persons,’ and that it lies upon him, who seeks to fix them with a liability which, upon the face of it, appears unconscionable, to establish that the contract out of which it arises was ‘fair, just, and reasonable.’

Now what is the state of things here? The plaintiff, an uneducated ignorant countryman of one of the most rural districts within our jurisdiction, found himself unable to pay Rs. 97 to his creditor. The creditor, an astute Brahman money-lender, knowing that, in their relative positions one to the other, he can dictate almost any terms, proceeds to put forward the agreement, the onerous conditions of which I have explained at the outset of my judgment. It is obvious that, in reality, the debtor had little or no choice but to accept them, and that, much in the same way as a young spendthrift will give his promissory note for a large amount so long as he gets a small sum of present cash, the plaintiff in his case was willing to consent to any proposal to escape from his immediate embarrassment. It is equally clear to my mind that the object the defendant had in view, knowing the plaintiff's pecuniary capabilities, was to put him under such terms that unless he obtained funds from foreign sources he would never be able to redeem his share, and it would thus inevitably fall into his hands.

"It is bargains of this description between the small village proprietors and the money-lenders that are gradually working the extinction of the former class in many of the country districts, and producing results which are not only a serious scandal, but a positive mischief. For it is to be borne in mind that the pecuniary difficulties of the persons I have mentioned are as often as not the result of misfortune rather than improvidence, and that bad seasons have as much to do with causing them as waste or extravagance. Whichever way it be, this is certain, that the money-lenders, as anyone who sits in this court must see, are to an alarming extent absorbing proprietary interests in the village communities, and that the body of ex-proprietors is enormously on the decrease. It is, of course, not my business here to discuss the policy that should govern the action of the State in dealing with this state of things; but as a Judge having power to enforce equitable principles, I am resolutely determined, until I am set right by higher authority, to give effect, in cases of this kind, to the principle propounded by the eminent lawyers to whose utterances I have referred, and to see that justice is done. It may be said that the repeal of the usury laws prohibits me from adopting the course I propose to take. As to this, it is enough to say that Lord SELBOURNE, Lord HATHERLEY, and Sir GEORGE JESSEL, in the judgments to which I have adverted, remarked in the clearest and most emphatic language that the repeal of the usury laws in England had in no way touched or affected the power claimed by the Court of Chancery to grant relief in such matters. I entirely concur in and approve the order proposed by my brother MAHMOOD."

That a converging fire of legal big guns of English, American, and Indian manufacture, was found necessary to coerce *fraud* into "the inequitable" was, some will think, a ridiculous exercise of force.

The case itself was simple enough.

A needy cultivator being unable to borrow money except at high interest, deliberately agrees to the lender's terms, and executes a formal mortgage-deed, which satisfies all the requirements of the law. For ten years the debtor staves off the day of reckoning, and when it comes, is heart-broken to find that a debt of Rs. 97 has grown

873. The Assistant Commissioner found that "the evidence shows that Ram Pershad was quite aware of the clauses in the deed relating to interest and penalty; and since the terms of the deed have been acted up to, it may reasonably be presumed his declaration of ignorance is false." Under the facts found, the Assistant Commissioner (court of first instance) acted in strict conformity with the law in decreeing the claim in full. When the case reached the Allahabad High Court, that court sympathised with the debtor, and being unable to circumvent the law of contract in any other way, stretched *fraud* into covering a meaning of *inequitable*, and so wiped out more than half the sum the debtor was otherwise legally bound to pay.

The ruling will, in effect, enable Judges to set aside the terms of any "inequitable" contract, no matter how secured by any formal execution and registration. The ruling will, I fear, have little influence, as almost all the original civil litigation of the Province is disposed of by native Judges, who will certainly prefer to be guided by the Contract, Specific Relief, Evidence, Stamp, and Registration Acts, none of which are designed to save fools from the consequences of their own folly. In being so guided,

Native Judges will economise their time, satisfy their friends—the lending classes—and prove themselves better lawyers than the broad-minded gentlemen who sit in the High Court, and sometimes subordinate the law to their sympathies when agricultural debtors are concerned. The case illustrates the remarks advanced at pages 127-129. It seems to me to go far towards proving one of the contentions put forward in this book, that as the majority of the people of India are in money matters shortsighted, reckless fools, our laws must be simplified to meet their necessities. What is wanted is, that the complicated and mischievous Acts which are ruining the agricultural classes and enriching money-lenders and pleaders, should be superseded by a simple enactment cast largely in the lines of the “Dekkhan Agriculturists’ Relief Act.”

I am glad to see that a Bill is now before the Legislative Council, which, when it becomes law, will enable the Bombay Government to extend the best provisions of that Act to the districts to which it is not yet applicable. I trust that before my Indian service is over, I may see the Punjab peasantry secured in the possession of their ancestral holdings by a *Magna Charta* of their own, in the shape of a “Punjab Agriculturists’ Relief Act.”

APPENDIX G.

SUGGESTIONS FOR AN INSOLVENCY LAW FOR RURAL INDIA.

In a paper I submitted to Government on agricultural indebtedness in June, 1884, I wrote as follows on the amendment of Chapter XX of the Civil Procedure Code, which contains the existing insolvency law, and suggested the passing of an Act to comprise, *inter alia*, the following provisions :—

(a) requiring courts to discharge judgment-debtors owing Rs. 50 or less, when hereditary agriculturists, at once on payment of as much as the court thinks they can pay—see Section 19, Deccan Ryots Act; also Section 358 of the Civil Procedure Code;

(b) legalising a declaration of insolvency in favor of hereditary agriculturists owing Rs. 50 or upwards, upon their simple application and proof of indebtedness, and enabling the Collector to receive and manage as much of their immoveable property as is not required for the support of the insolvent and of his family for the benefit of the creditors, for a period not exceeding 14 years—(see Sections 25-29, Deccan Ryots Act).

“The existing insolvency rules contained in Chapter XX of the Civil Procedure Code are, I think, faulty and inequitably harsh, because—

- (1) none but a judgment-debtor can benefit by them;
- (2) when the debts are over Rs. 200, the discharge is not a discharge in full, all property subsequently acquired being liable to attachment and sale for 12 years;
- (3) no property is exempted from disposal for the benefit of the creditors, and so the insolvent and his family are stripped and left destitute.

The unpopularity of the law as it stands is exemplified by the fact that, in 1882, only 283 persons applied for its ‘benefit’ throughout the Province (see Statement No. 7, Civil Report, 1882). Persons would almost daily file schedules of their debts before me, and seek an arrangement with their creditors by temporary alienation of their land.

but that in very few cases I am able to help them. As the creditors are often enjoying a share of each harvest as interest, they prefer not to sue their debtors. I have tried various expedients in order to settle debtors' outstandings, but only in a few cases have I succeeded. I have summoned the creditors and used pressure to make them come to terms. I have repeatedly urged the debtor to get a decree passed against himself, and arranged to leave him enough to save him and his family from starvation when declaring him an insolvent. I am endeavouring to arrange several heavy cases now: but the creditors know the advantages the law gives them, and I find it very difficult to settle fair terms with them. I have at present throughout the district, but chiefly in the Dera and Leiah tahsils, 274 lambardars, owing, in the aggregate, Rs. 5,81,157, whose debts I could easily arrange were a liberal insolvency law passed. Until it is passed, debtors from very hopelessness are precluded from any honorable exertion to free themselves. Many of their debts are inherited, and a large percentage have been liquidated over and over again in interest alone. Many are due to former over assessment, or former rigidity of assessment, particularly in the Indus tracts of the Leiah tahsil."

APPENDIX H.

RULES IN THE MATTER OF ATTACHMENT OF AGRICULTURAL PRODUCE IN DECREES FOR DEBT IN THE KAPURTHALA STATE.

Attachment of the produce of the land or of cattle in execution of decree against an agriculturist shall only be granted at harvest time.

2. At harvest time the court may attach—

(a). Any surplus produce of former harvests belonging to the judgment-debtor.

(b). Surplus cattle not necessary for tilling the ground.

(c). A fixed share of the produce of the current harvest.

3. The fixed share mentioned in the previous rule shall not exceed—

(a). From owners and tenants who pay revenue or rent in cash, two-thirds of the grain and one-third of the straw in ordinary crops and three-fourths of rabi crops: provided that the judgment-creditor pays into court the whole of the revenue or rent charges due on the crop.

(b). From tenants who pay rent in kind, one-half of the tenant's share of the grain in ordinary crops and three-fifths of the tenant's share in rabi crops.

4. Sums paid into court as revenue under the previous rule shall be credited to the State on account of the crops to which they relate in the judgment-debtor's behalf, and the court shall give notice of such payments to the Collector, who shall give such directions concerning them as he shall see fit.

5. Sums paid into court under Rule 3 as rent charges shall be made over to the judgment-debtor so soon as the report of the attachment of the produce has been received from the attaching officer.

* Accompaniments to Punjab Government printed letter No. 459 S., dated 17th September, 1880.

